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Volume 5

Title 4

Public Care Systems

to

Title 5

Police, Firefighters, Medical Examiner, and Forensic Sciences

JUNE 2013 SUPPLEMENT



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PREFACE

These annual cumulative pocket parts update the District of Columbia Official Code, 2001 Edition, with permanent, temporary, and emergency legislation and judicial constructions contained in annotations. These pocket parts contain the Laws, general and permanent in their nature, relating to or in force in the District of Columbia (except such laws as are of application in the General and Permanent Laws of the United States) in effect as of April 1, 2013.

This Supplement also updates the D.C. Code annotations by including notes taken from District of Columbia cases appearing in the following sources: Atlantic Reporter, 3d Series Supreme Court Reporter Federal Reporter, 3d Series Federal Supplement, 2d Series Bankruptcy Reporter.

Current legislation between pamphlets or pocket parts can be accessed online at www.lexisnexis.com/advance, www.lexisnexis.com/research, and <http://dcclims1.dccouncil.us/lims>.

The unannotated District of Columbia Official Code can be accessed on the District of Columbia Council Website at <http://www.dccouncil.us>.

Later laws and annotations will be cumulated in subsequent annual Pocket Parts.

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DIVISION I. GOVERNMENT OF DISTRICT.

TITLE 4. PUBLIC CARE SYSTEMS.

Chapter

1. Public Welfare Supervision.
2. Public Assistance.
- 7A. Services for Homeless Individuals and Families.
13. Child Abuse and Neglect.
14. Placement of Children in Family Homes.

CHAPTER 1. PUBLIC WELFARE SUPERVISION.

Sec.

- 4-114. Powers of Mayor over dependent children.

§ 4-114. Powers of Mayor over dependent children.

(a) The Mayor of the District of Columbia (hereinafter referred to as the “Mayor”) may:

(1) Make temporary provision for the care of children pending investigation of their status;

(2) Have the care and legal guardianship, including the power to consent to or arrange for adoption in appropriate cases, of:

(A) Children who may be committed to the Mayor as wards of the District of Columbia by courts of competent jurisdiction; and

(B) Children who are relinquished by their parents to the Mayor or whose relinquishment is transferred to the Mayor by a licensed child-placing agency under § 4-1406;

(3) Make such provisions for the care and maintenance of such children in private homes, under contract, including adoption subsidy pursuant to § 4-301, or in public or private institutions, as the welfare of such children may require; and

(4) Provide care and maintenance for children with substantial intellectual disabilities who may be received upon application or upon court commitment, in institutions or homes or other facilities equipped to receive them, within or without the District of Columbia.

(b) The Mayor shall cause the wards of the District of Columbia placed out under temporary care to be visited as often as may be required to safeguard their welfare.

(c) The Mayor may, where appropriate, secure an assignment of rights from a parent whose child is in the custody of a person or agency receiving foster care maintenance payments under Part E in Subchapter IV of the Social Security Act (42 U.S.C. § 670 et seq.).

(Mar. 16, 1926, 44 Stat. 210, ch. 58, § 11; Jan. 2, 1974, 87 Stat. 1057, Pub. L.

93-241, § 1(a)(1); Feb. 24, 1987, D.C. Law 6-166, § 33(e), 33 DCR 6710; Sept. 26, 2012, D.C. Law 19-169, § 8, 59 DCR 5567.)

Section references. — This section is referenced in § 4-115.

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted “children with substantial intellectual disabilities” for “substantially retarded children” in (a)(4).

Legislative history of Law 19-169. — Law 19-169, the “People First Respectful Language Modernization Amendment Act of 2012,” was introduced in Council and assigned Bill No.

19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor’s notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

CHAPTER 2. PUBLIC ASSISTANCE.

Subchapter II. Establishment of Programs; Administration of Chapter

Sec.

Sec.

4-202.05. Mayor to issue rules.

assistance payments for assistance unit; standards of assistance enumerated.

4-205.72. POWER — Establishment; eligibility.

4-205.72a. POWER — Additional eligibility.

4-205.74. POWER — Medical review.

Subchapter V. Public Assistance Programs

4-205.11b. Reduction of benefits for long-term TANF recipients.

4-205.19a. Redetermination of eligibility.

4-205.19m. Reporting requirements.

4-205.19n. Family assessment plan.

4-205.52. Determination of amount of public

Subchapter XII. Payments to Incapacitated Individuals

4-212.03. Protective payments on behalf of adult recipients.

Subchapter II. Establishment of Programs; Administration of Chapter

§ 4-202.05. Mayor to issue rules.

(a) The Mayor shall, no later than January 1, 1986, and pursuant to subchapter I of Chapter 5 of Title 2, issue rules necessary to implement § 2 of the District of Columbia Public Assistance Act of 1982 Amendments Act of 1985.

(b) The Mayor shall promptly issue proposed rules to implement the provisions of the Self-Sufficiency Promotion Amendment Act of 1998, effective April 20, 1999 (D.C. Law 12-241; 46 DCR 905), pursuant to subchapter I of Chapter 5 of Title 2. The proposed rules shall be submitted to the Council for a 30-day period of review excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution, within the 30-day review period, the proposed rules shall be deemed approved.

(c)(1) Within 90 days of January 19, 2011, the Mayor shall issue proposed rules on sanctions.

(2) The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of

Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

(d) Within 30 days of September 20, 2012, the Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], shall issue rules to implement the provisions of [D.C. Law 19-168, §§ 5161 to 5163].

(Apr. 6, 1982, D.C. Law 4-101, § 205, as added Sept. 10, 1985, D.C. Law 6-35, § 2(a), 32 DCR 3778; Apr. 20, 1999, D.C. Law 12-241, § 2(f), 46 DCR 905; Apr. 20, 1999, D.C. Law 12-264, § 15(a), 46 DCR 2118; Apr. 8, 2011, D.C. Law 18-370, § 522(a), 58 DCR 1008; Sept. 20, 2012, D.C. Law 19-168, § 5162(a), 59 DCR 8025.)

Section references. — This section is referenced in § 4-202.02 and § 4-205.11b.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 added (d).

Legislative history of Law 19-168. — Law 19-168, the “Fiscal Year 2013 Budget Support Act of 2012,” was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

References in text. — The Time limit Act, referred to in (d), is Subtitle Q of Title V of D.C. Law 19-168, consisting of §§ 5161 to 5163. Subtitle Q added § 4-202.05(d), amended §§ 4-205.11b, 4-205.19a, 4-205.72(e), and 4-205.74(a), and enacted § 4-205.72a.

Editor’s notes. — Section 5163 of D.C. Law 19-168 provided that § 5162 shall apply upon certification by the Chief Financial Officer that sufficient revenue is available in the June 2012, September 2012, or December 2012 revenue estimates to fund section 10002(a)(1) and (2)(A) of D.C. Law 19-168.

Subchapter IV. Old Age Assistance; Aid to the Blind; Aid to the Disabled; Medicaid Program Administration.

PART C.

MEDICAID AND SPECIAL EDUCATION REFORM FUND.

§ 4-204.53. Establishment of the Medicaid and Special Education Reform Fund.

Section references. — This section is referenced in § 4-204.52 and § 7-1811.03.

Emergency legislation.

For temporary (90 day) addition of section, see § 5142 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of section, see § 5142 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Editor’s notes. — Section 5142 of D.C. Law 19-168 provided:

“(a) Beginning on June 1, 2012, unspent funds from Medicaid underenrollment, calculated on a fiscal year basis, shall be set aside in a fund to offset the costs to implement the South Capitol Street Memorial Amendment Act of 2012 effective June 7, 2012 (D.C. Law 19-141; 59 DCR 3083) (“South Capitol Street Memorial Amendment Act”).

“(b) This section shall not apply if the South Capitol Street Memorial Amendment Act is fully funded, as certified by the Chief Financial Officer, either by the terms of this section or pursuant to section 10002(3) of the Revised

Revenue Estimate Contingency Priority List
Act of 2012, passed on 2nd reading on June 5,
2012 (Enrolled version of Bill 19-743).”

§ 4-204.54. Purposes of the Fund.

Section references. — This section is referenced in § 4-204.53 and § 4-204.55.

Emergency legislation.

For temporary (90 day) addition of section, see § 5142 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of section, see § 5142 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Subchapter V. Public Assistance Programs.

§ 4-205.11b. Reduction of benefits for long-term TANF recipients.

(a) Except as provided in subsections (b) and (c) of this section, an individual who has received federally funded or locally funded TANF benefits in the District for more than 60 months, whether or not consecutive, shall receive a reduction in his or her maximum benefit in accordance with § 4-205.52 and as set forth in rules issued pursuant to § 4-202.05(d) and § 4-205.52(d).

(b) In determining the number of months that an individual has received TANF benefits, the District shall not count any month that the individual is a minor who is:

- (1) Not the head of household; and
- (2)(A) Not the head of an assistance unit; or
- (B) Married to the head of an assistance unit.

(c)(1) Beginning October 1, 2012, TANF benefits may be extended beyond the 60-month limit for an individual on a hardship basis.

(2) For the purposes of this subsection, the term “hardship” means:

- (A) The individual is 60 years of age or older; or
- (B) The individual is meeting the full requirements of his or her Individual Responsibility Plan and can show that he or she is enrolled in an accredited postsecondary education program or a Department of Employment Services approved job training program in which the TANF recipient is working towards the attainment of a degree, certificate, or official credential.

(d) An individual who qualifies for an extension pursuant to subsection (c)(1) of this section shall be limited to an extension of up to 24 months, in accordance with his or her Individual Responsibility Plan.

(e) Within 12 months of, but no less than 90 days before, the elimination of benefits pursuant to this section, a client shall have the opportunity to complete or update an Individual Responsibility Plan. Pursuant to the Individual Responsibility Plan, the Department shall assist the customer with accessing support for addressing barriers to employment and assist with the transition to employment.

(f) A TANF recipient whose TANF benefits are extended past the 60-month limit pursuant to subsection (c) of this section shall receive the level of public

assistance payment for which he or she would be eligible if the recipient had not exceeded the 60-month limit.

(Apr. 6, 1982, D.C. Law 4-101, § 511b, as added Apr. 8, 2011, D.C. Law 18-370, § 522(b), 58 DCR 1008; Sept. 20, 2012, D.C. Law 19-168, § 5162(b), 59 DCR 8025.)

Section references. — This section is referenced in § 4-205.52 and § 4-205.72.

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 substituted “of benefits” for “in benefits” in the section heading; and rewrote the section.

Legislative history of Law 19-168. — Law 19-168, the “Fiscal Year 2013 Budget Support Act of 2012,” was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the

Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Editor’s notes. — Section 5163 of D.C. Law 19-168 provided that § 5162 shall apply upon certification by the Chief Financial Officer that sufficient revenue is available in the June 2012, September 2012, or December 2012 revenue estimates to fund section 10002(a)(1) and (2)(A) of D.C. Law 19-168.

§ 4-205.19a. Redetermination of eligibility.

(a) For purposes of §§ 4-205.19b, 4-205.19c, 4-205.19f and 4-205.19g, a TANF recipient shall be considered an applicant for TANF benefits at each time of redetermination of eligibility for TANF. When a current TANF recipient is considered to be an applicant pursuant to this subsection, the Mayor may require the individual to participate in a work activity other than job search or job readiness in order to comply with this section, and § 4-205.19c shall apply if the individual fails to comply with any such work activity that the Mayor may require.

(b) As part of the redetermination of eligibility, a TANF recipient shall be provided information about the POWER program and screened for POWER eligibility. TANF applicants and recipients shall be permitted to affirmatively submit applications for POWER.

(c) As part of the redetermination of eligibility, a TANF recipient who may reach the 60-month limit during the 12 months following redetermination shall be provided information about hardship extensions and screened for eligibility for a hardship extension.

(d) The Mayor, or his designee, shall inform all TANF recipients and applicants of the eligibility criteria for POWER and TANF hardship extensions.

(Apr. 6, 1982, D.C. Law 4-101, § 519a, as added Apr. 20, 1999, D.C. Law 12-241, § 2(w), 46 DCR 905; Sept. 20, 2012, D.C. Law 19-168, § 5162(c), 59 DCR 8025.)

Section references. — This section is referenced in § 4-205.72.

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 added the (a) designation; and added (b) to (d).

Editor’s notes. — Section 5163 of D.C. Law

19-168 provided that § 5162 shall apply upon certification by the Chief Financial Officer that sufficient revenue is available in the June 2012, September 2012, or December 2012 revenue estimates to fund section 10002(a)(1) and (2)(A) of D.C. Law 19-168.

§ 4-205.19m. Reporting requirements.

The Mayor shall report and make public the following performance measures annually:

(1) By vendor program:

(A) The number of TANF work-eligible recipients and percentage of the TANF caseload who have participated in the specific vendor program, including the number and percentage of those recipients who have:

(i) Met their work participation requirements for at least one month during the reporting period;

(ii) Completed the education or training program; and

(iii) Have become employed.

(B) Of those who gained employment, the number and percentage of TANF recipients who remain employed and met work participation requirements, by month, for up to 6 months;

(C) Of those who exited TANF due to earnings, the number and percentage of TANF recipients who return to a vendor program after 3 months, 6 months, 12 months, and 18 months;

(2) The number of TANF recipients and percentage of the TANF caseload who:

(A) Have applied for a waiver from job search or job readiness activities, as defined in § 4-205.19b, and work activities, as defined in § 4-205.19d, due to domestic violence as referenced in § 4-205.19b(d)(3);

(B) Have been granted a waiver from job search or job readiness activities, pursuant to § 4-205.19b, and work activities due to domestic violence as referenced in § 4-205.19b(d)(3);

(C) Have been referred to treatment through domestic violence services pursuant to § 4-205.19b(d)(2); and

(D) Are receiving domestic violence services through a referral by the Mayor pursuant to § 4-205.19b(d)(2);

(3) The number of TANF recipients and percentage of the TANF caseload who have been:

(A) Referred to POWER pursuant to § 4-205.73(b);

(B) Approved for POWER; and

(C) Referred to and receive, to the extent such information is accessible and available, treatment services for substance abuse or physical or mental disabilities;

(4) The number of TANF recipients and percentage of the TANF caseload who are participating in each work activity listed in § 4-205.19c(c-1), including the number of TANF recipients and percentage of TANF caseload who have reported self-employment as their unsubsidized employment work activity;

(5) For the following activities, a list of organizations, with which TANF recipients have been placed and the number placed with each:

(A) Subsidized private sector employment;

(B) Subsidized public sector employment;

(C) Work experience;

(D) On-the-job-training;

- (E) Community service;
- (F) Vocational education training; and
- (G) Job skills training directly related to employment;
- (6) The number of TANF recipients and percentage of the TANF caseload who have:
 - (A) Been referred to the Tuition Assistance Program Initiative for TANF (“TAPIT”);
 - (B) Been enrolled in TAPIT; and
 - (C) Successfully completed TAPIT;
- (7) The number of TANF recipients and percentage of the TANF caseload who have:
 - (A) Been referred to the University of the District of Columbia Paths Program;
 - (B) Been enrolled in the UDC Paths Program; and
 - (C) Successfully completed the UDC Paths Program; and
- (8) The number of TANF recipients and percentage of the TANF caseload who were not referred to work activities within 6 months and 12 months after a positive eligibility determination.

(Apr. 20, 1999, D.C. Law 4-101, § 519m, as added Apr. 8, 2011, D.C. Law 18-366, § 2(d), 58 DCR 981; Sept. 26, 2012, D.C. Law 19-171, § 32(a), 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in (2)(A).

Legislative history of Law 19-171. — Law 19-171, the “Technical Amendments Act of 2012,” was introduced in Council and assigned

Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

§ 4-205.19n. Family assessment plan.

Within 180 days of April 8, 2011, the Mayor shall submit to the Council a plan, with timetables and budget requirements, to assess every family and to offer supportive services and job training opportunities for the TANF program, starting with all present and subsequent families that have been on the program beyond 60 months, and to transition all families beyond 60 months from the program within 5 years.

(Apr. 20, 1999, D.C. Law 4-101, § 519n, as added Apr. 8, 2011, D.C. Law 18-366, § 2(e), 58 DCR 981; Sept. 26, 2012, D.C. Law 19-171, § 32(b), 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 made a stylistic change in the section heading.

Legislative history of Law 19-171. — See note to § 4-205.19m.

§ 4-205.52. Determination of amount of public assistance payments for assistance unit; standards of assistance enumerated.

(a) To determine the TANF, POWER or GAC payment for an assistance unit, the Mayor shall subtract any income of the assistance unit, after applicable disregards, from the current payment level for a family that is the size of the assistance unit.

(b) Repealed.

(c) The standards of assistance are set forth in the following table and include a portion of basic costs of food, clothing, shelter, household and personal items, and certain transportation costs:

STANDARDS OF ASSISTANCE

Family Size	Standard of Assistance	Payment Level
1	\$ 450.00	\$ 239.00
2	560.00	298.00
3	712.00	379.00
4	870.00	463.00
5	1,002.00	533.00
6	1,178.00	627.00
7	1,352.00	719.00
8	1,494.00	795.00
9	1,642.00	874.00
10	1,786.00	950.00
11	1,884.00	1,002.00
12	2,024.00	1,077.00
13	2,116.00	1,126.00
14	2,232.00	1,187.00
15	2,316.00	1,232.00
16	2,432.00	1,294.00
17	2,668.00	1,419.00
18	2,730.00	1,452.00
19	2,786.00	1,482.00

(c-1) Repealed.

(c-2) The level of public assistance payment for assistance units subject to § 4-205.11b shall be equal to the current payment level for the assistance unit, established by subsection (d) of this section, less 20% after February 1, 2011.

(c-3) In addition to the reduction set forth in subsection (c-2) of this section, the following adjustments shall be made to the level of public assistance payment for assistance units subject to § 4-205.11b:

(1) For fiscal year 2014, a reduction of 25% of the fiscal year 2013 amount;

(2) For fiscal year 2015, a reduction of 41.7% of the fiscal year 2014 amount; and

(3) For fiscal year 2016 and thereafter, no benefits shall be provided.

(d) The table set forth in subsection (c) of this section shall apply to

payments made after January 31, 1998. The level of public assistance payments for assistance units and the standards of assistance in subsection (c) of this section may be adjusted by the Mayor through promulgation of a rule in accordance with the rulemaking provisions of subchapter I of Chapter 5 of Title 2.

(e) A recipient of public assistance may not make a claim for any cost-of-living adjustment in assistance payments that have not been paid prior to December 29, 1994, and would have been paid but for the enactment of the Public Assistance Act of 1982 Budget Conformity Amendment Act of 1991, effective August 17, 1991 (D.C. Law 9-27; 38 DCR 5794).

(f) A recipient of public assistance may not make a claim for any adjustment in assistance payments that have not been paid prior to December 29, 1994, and would have been paid but for the enactment of the Public Assistance Act of 1982 Budget Conformity Amendment Act of 1991, effective August 17, 1991 (D.C. Law 9-27; 38 DCR 5794).

(Apr. 6, 1982, D.C. Law 4-101, § 552, 29 DCR 1060; May 19, 1982, D.C. Law 4-108, § 3, 29 DCR 1413; Aug. 10, 1984, D.C. Law 5-100, § 2, 31 DCR 2896; Apr. 11, 1986, D.C. Law 6-106, § 2, 33 DCR 1165; June 25, 1986, D.C. Law 6-124, § 2(c), 33 DCR 2940; Mar. 11, 1988, D.C. Law 7-86, § 2(a), 35 DCR 140; Aug. 17, 1991, D.C. Law 9-27, § 2(g), 38 DCR 4205; Sept. 26, 1995, D.C. Law 11-52, § 502(e), 42 DCR 3684; Oct. 27, 1995, D.C. Law 11-72, § 201(f), 42 DCR 4728; Apr. 18, 1996, D.C. Law 11-110, § 9(b), 43 DCR 530; Apr. 9, 1997, D.C. Law 11-199, § 302, 43 DCR 4569; Aug. 1, 1996, D.C. Law 11-152, § 101(a), 43 DCR 2978; Apr. 9, 1997, D.C. Law 11-198, § 302, 43 DCR 4569; Apr. 20, 1999, D.C. Law 12-241, § 2(qq), 46 DCR 905; Apr. 8, 2011, D.C. Law 18-370, § 522(f), 58 DCR 1008; Sept. 14, 2011, D.C. Law 19-21, § 5022, 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, § 5172, 59 DCR 8025.)

Section references. — This section is referenced in § 4-204.07, § 4-205.10, § 4-205.11b, and § 4-205.78.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168, in (c-3)(1), substituted “fiscal year 2014” for “fiscal year 2013” and “fiscal year 2013” for “fiscal year 2012”; in (c-3)(2), substituted “fiscal year 2015” for “fiscal year 2014” and “fiscal year 2014” for “fiscal year 2013”; and substituted “fiscal year 2016” for “fiscal year 2015” in (c-3)(3).

Temporary Amendment of Section. — Section 2 of D.C. Law 19-221 amended (c-3) section to read as follows:

“(c-3) In addition to the reduction set forth in subsection (c-2) of this section, the following adjustments shall be made to the level of public assistance payment for assistance units subject to § 4-205.11b:

“(1) For the period beginning April 1, 2013, and ending September 30, 2013, a reduction of 25% of the fiscal year 2012 amount;

“(2) For fiscal year 2014, a reduction of 41.7% of the amount established by paragraph (1) of this subsection; and

“(3) For fiscal year 2015 and thereafter, no benefits shall be provided.”

Section 4(b) of D.C. Law 19-221 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary amendment of (c-3), see § 2 of the Temporary Assistance for Needy Families Time Delay Emergency Amendment Act of 2012 (D.C. Act 19-450, September 20, 2012, 59 DCR 11093).

For temporary amendment of (c-3), see § 2 of the Temporary Assistance for Needy Families Time Delay Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-570, December 20, 2012, 60 DCR 95).

Legislative history of Law 19-168. — See note to § 4-202.05

Editor's notes.

Section 5173 of D.C. Law 19-168 provided that § 5172 shall apply upon certification by the Chief Financial Officer that sufficient revenue is available in the June 2012, September 2012, or December 2012 revenue estimates to

fund section 10002(a)(1) and (2)(A) of D.C. Law 19-168.

§ 4-205.59. Effect of pending hearing.

Section references. — This section is referenced in § 4-205.54.

LAW REVIEWS AND JOURNAL COMMENTARIES

The New Law Governing General Public Assistance. Sarah Mulkern, 1 D.C.L.Rev. 171, (1992).

§ 4-205.72. POWER — Establishment; eligibility.

(a) There is established a Program on Work, Employment, and Responsibility (“POWER”), eligibility for which shall be the same as the factors, standards, and methodology for determining eligibility for TANF, as set forth in this subchapter, except as provided by subsections (b), (c), and (d) of this section, and §§ 4-205.73 through 4-205.77.

(b) An assistance unit shall be eligible for POWER under the following circumstances:

- (1) The head of the assistance unit is the parent of a minor child;
- (2) The head of the assistance unit is physically or mentally incapacitated; and

(3) The physical or mental incapacity of the head of the assistance unit rises to the level of incapacity outlined by subsection (c) of this section.

(c) For the purposes of subsection (b) of this section, physical and mental incapacity must be verified by competent medical evidence and when considered with the head of the assistance unit’s age, prior work experience, education, and other factors bearing on the head of the assistance unit’s ability to work, as determined relevant by the Mayor:

(1) Substantially precludes the ability of the head of the assistance unit to work or to participate in job search or job readiness activities; and

(2) Is expected to last more than 30 days.

(d) A person is ineligible for POWER if that person receives:

- (1) Temporary Assistance for Needy Families;
- (2) Supplemental Security Income; or
- (3) Unemployment Compensation benefits.

(e) Sections 4-205.11a, 4-205.11b, 4-205.19a through 4-205.19f, 4-205.19j, and 4-205.19k, shall not apply to recipients of POWER benefits.

(Apr. 6, 1982, D.C. Law 4-101, § 572, as added Apr. 20, 1999, D.C. Law 12-241, § 4(g), 46 DCR 905; Sept. 20, 2012, D.C. Law 19-168, § 5162(d), 59 DCR 8025.)

Section references. — This section is referenced in § 4-201.01, § 4-205.72a, § 4-205.74, and § 4-205.76.

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 substituted

“4-205.11a, 4-205.11b, 4-205.19j” for “4-205.11a, and 4-205.19a” in (e).

Legislative history of Law 19-168. — See note to § 4-202.05.

Editor’s notes. — Section 5163 of D.C. Law

19-168 provided that § 5162 shall apply upon certification by the Chief Financial Officer that sufficient revenue is available in the June 2012,

September 2012, or December 2012 revenue estimates to fund section 10002(a)(1) and (2)(A) of D.C. Law 19-168.

§ 4-205.72a. POWER — Additional eligibility.

(a) In addition to the circumstances set forth in § 4-205.72, beginning October 1, 2012, an assistance unit shall be eligible for POWER if the head of the assistance unit:

(1)(A) Is the parent of a minor child; and

(B) Is needed in the home, due to medical necessity, to care for a household member who is physically or mentally incapacitated as described in § 4-205.72(c);

(2)(A) Is the parent of a minor child;

(B) Has been determined by the Department to be a victim of domestic violence who is receiving relevant support counseling or services; and

(C) Has received a domestic violence assessment by the Department or the Department's designee that resulted in a recommendation that the work requirement or child support cooperation be waived;

(3) Is a pregnant or parenting teen who:

(A) Has been certified by the Department as being exempt from the home living requirements under § 4-205.63(b);

(B) Is enrolled in high school or a General Education Equivalency Degree program;

(C) Meets her or his work requirements in compliance with her or his TANF Individual Responsibility Plan or any equivalent plan developed during her or his participation in POWER; and

(D) Is less than 19 years old; or

(4) Is a single custodial parent or caretaker with a child under 12 months old; provided, that no parent may remain eligible under this paragraph for more than 12 months.

(b) An assistance unit's eligibility for POWER pursuant to subsection (a) of this section shall be subject to annual review and redetermination.

(Apr. 6, 1982, D.C. Law 4-101, § 572a, as added Sept. 20, 2012, D.C. Law 19-168, § 5162(e), 59 DCR 8025.)

Section references. — This section is referenced in § 4-205.74.

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 added this section.

Legislative history of Law 19-168. — See note to § 4-202.05.

Editor's notes. — Section 5163 of D.C. Law 19-168 provided that § 5162 shall apply upon certification by the Chief Financial Officer that sufficient revenue is available in the June 2012, September 2012, or December 2012 revenue estimates to fund section 10002(a)(1) and (2)(A) of D.C. Law 19-168.

§ 4-205.74. POWER — Medical review.

(a) After the Mayor determines that a TANF applicant or recipient may be considered for POWER eligibility, pursuant to § 4-205.72, the Mayor shall provide a medical review of the applicant or recipient to determine whether the applicant or recipient is incapacitated.

(a-1) After the Mayor determines that a TANF applicant or recipient may be considered for POWER eligibility, pursuant to § 4-205.72a, the Mayor shall provide a review of the applicant or recipient to determine whether the applicant or recipient is eligible for POWER.

(b) The applicant or recipient shall cooperate with obtaining the medical review as a condition of eligibility for POWER.

(Apr. 6, 1982, D.C. Law 4-101, § 574, as added Apr. 20, 1999, D.C. Law 12-241, § 4(g), 46 DCR 905; Sept. 20, 2012, D.C. Law 19-168, § 5162(f), 59 DCR 8025.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 added “pursuant to § 4-205.72” in (a); and added (a-1).

Legislative history of Law 19-168. — See note to § 4-202.05.

Editor’s notes. — Section 5163 of D.C. Law

19-168 provided that § 5162 shall apply upon certification by the Chief Financial Officer that sufficient revenue is available in the June 2012, September 2012, or December 2012 revenue estimates to fund section 10002(a)(1) and (2)(A) of D.C. Law 19-168.

Subchapter XII. Payments to Incapacitated Individuals.

§ 4-212.03. Protective payments on behalf of adult recipients.

(a) The Mayor may authorize protective payments on behalf of adult recipients of public assistance under the following conditions:

(1) When there has been made clear determination that a needy individual has, by reason of physical or mental impairment, such inability to manage funds that making payments to him would be contrary to his or her welfare, as evidenced by his or her repeated failure to pay for rent and other essentials, exploitation of him or her in money matters by other persons, and medical or psychological reports indicating severe intellectual disability, disorientation, or memory loss; and

(2) When the individual selected as payee has shown an interest in and concern for the welfare of the recipient, is accessible to the recipient, has the ability to establish and maintain a positive friendly relationship with the recipient, and is dependable and able to use the assistance payment in the best interests of the recipient. Members of the staff of the Mayor or persons whose selection might create a conflict of interest, such as grocers or landlords, shall not be selected as payees.

(b) The adult recipient shall be given the opportunity for a fair hearing with respect to any decision to make or continue protective payments or the selection of the payee.

(c) The Mayor will undertake and continue special efforts to improve, to the extent possible, the recipient’s capacity for self-care and his or her ability to manage funds.

(d) Reconsideration of the need for protective payments shall be made as indicated by the recipient’s circumstances and, in any event, at least every 6 months.

(e) The Mayor shall initiate court proceedings for the judicial appointment of a guardian or other legal representative whenever it appears that such an appointment will best serve the interests of the recipient.

(f) The Mayor shall authorize protective payments only when the Mayor can meet total need for all cases based on the current standards for requirements.

(g) Repealed.

(Apr. 6, 1982, D.C. Law 4-101, § 1203, 29 DCR 1060; Mar. 20, 1998, D.C. Law 12-60, § 701(x), 44 DCR 7378; Apr. 20, 1999, D.C. Law 12-241, § 2(rrr), 46 DCR 905; Sept. 26, 2012, D.C. Law 19-169, § 9, 59 DCR 5567.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted “severe intellectual disability” for “severe mental retardation” in (a)(1).

Legislative history of Law 19-169. — Law 19-169, the “People First Respectful Language Modernization Amendment Act of 2012,” was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and sec-

ond readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor’s notes.

Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

CHAPTER 2A. GRANDPARENT CAREGIVERS PILOT PROGRAM.

§ 4-251.03. Eligibility.

Section references. — This section is referenced in § 4-251.05.

Emergency legislation.

For temporary addition of (a-1), see § 2 of the

Grandparent Caregivers Program Emergency Amendment Act of 2012 (D.C. Act 19-571, December 20, 2012, 60 DCR 97).

CHAPTER 3. ADOPTION PROGRAMS.

Subchapter I. General.

§ 4-301. Adoption subsidy payments.

Section references. — This section is referenced in § 4-114, § 4-302, § 4-322, § 4-345, § 16-307, and § 16-309.

LAW REVIEWS AND JOURNAL COMMENTARIES

Constitutional Law: Race As A Factor In Interracial Adoptions, 32 Catholic University Law Review 1022.

CHAPTER 7A. SERVICES FOR HOMELESS INDIVIDUALS AND FAMILIES.

Subchapter II. Interagency Council on Homelessness

Subchapter III. Continuum of Care

Sec.	Sec.
4-752.01. Establishment of Interagency Council on Homelessness.	4-753.04. Fiscal years 2012 and 2013 rapid re-housing.
4-752.02. Powers and duties of the Interagency Council.	

Subchapter II. Interagency Council on Homelessness.

§ 4-752.01. Establishment of Interagency Council on Homelessness.

(a) There is established in the District the Interagency Council on Homelessness for the purpose of facilitating interagency, cabinet-level leadership in planning, policymaking, program development, provider monitoring, and budgeting for the Continuum of Care of homeless services.

(b) The Interagency Council is composed of:

(1) The City Administrator, who shall serve as chairperson of the Interagency Council;

(2) The administrative head of each of the following entities or divisions thereof:

- (A) Department of Human Services;
- (B) Department of Mental Health;
- (C) Child and Family Services Agency;
- (D) Department of Housing and Community Development;
- (E) Department of Health;
- (F) District of Columbia Housing Authority;
- (G) Department of Corrections;
- (H) Department of Employment Services;
- (I) Office of the State Superintendent of Education;
- (J) Homeland Security and Emergency Management Agency;
- (K) Department of General Services; and
- (L) Metropolitan Police Department;

(3) A representative of any private entity designated to approve or allocate any grants or contracts, on behalf of the Mayor, for services within the Continuum of Care;

(4) A representative from a minimum of 4 and a maximum of 10 organizations that are providing services within the Continuum of Care;

(5) A minimum of 2 and a maximum of 5 homeless or formerly homeless individuals;

(6) A minimum of 2 and a maximum of 5 advocates for the District of Columbia's homeless population;

(7) The Chairman of the Council, or his or her designee, and the Chairman of the committee of the Council having purview over homeless services, or his or her designee, both of whom shall be non-voting members; and

(8) The administrative head of the Office of Shelter Monitoring, who shall be a non-voting member.

(c) All non-government members of the Interagency Council described in subsections (b)(4)-(6) of this section shall be nominated for appointment by the Mayor and approved by the Council. The Mayor shall transmit to the Council, within 90 days of October 22, 2005, nominations of each non-government member of the Interagency Council for a 60-day period of review, excluding days of Council recess. If the Council does not approve or disapprove a nomination by resolution within the 60-day review period, the nomination shall be deemed approved.

(Oct. 22, 2005, D.C. Law 16-35, § 4, 52 DCR 8113; Mar. 14, 2007, D.C. Law 16-262, § 405, 54 DCR 794; Mar. 14, 2007, D.C. Law 16-296, § 2(d), 54 DCR 1097; Aug. 16, 2008, D.C. Law 17-219, § 5004(a), 55 DCR 7598; Sept. 26, 2012, D.C. Law 19-171, § 33(a), 59 DCR 6190.)

Section references. — This section is referenced in § 4-751.01.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted “Department of General Services” for “Office of Property Management” in (b)(2)(K).

Legislative history of Law 19-171. — Law

19-171, the “Technical Amendments Act of 2012,” was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

§ 4-752.02. Powers and duties of the Interagency Council.

(a) The Interagency Council shall provide leadership in the development of strategies and policies that guide the implementation of the District’s policies and programs for meeting the needs of individuals and families who are homeless or at imminent risk of becoming homeless.

(b) In fulfilling the responsibility described in subsection (a) of this section, the Interagency Council shall:

(1) Coordinate an annual, community-wide needs-assessment and planning process to identify, prioritize, and target needs for services within the Continuum of Care. The needs-assessment shall take into account existing data and include input from at least one public hearing, which shall be held at least once each year;

(2) At least every 5 years, prepare and publish a strategic plan for services within the Continuum of Care that takes into account existing data and community input;

(3) Prepare an annual plan detailing how the District intends to provide or arrange for services within the Continuum of Care that takes into account existing data and community input;

(4) Review on a regular basis the efforts of each member of the Interagency Council to fulfill the goals and policies of the annual plan prepared pursuant to paragraph (3) of this subsection, including a review of the number and nature of contracts and grants entered into by each agency to provide services within the Continuum of Care;

(5) Prepare and submit to the Mayor an annual written report evaluating

the efforts of each member agency of the Interagency Council to meet the goals and policies of the annual plan prepared pursuant to paragraph (3) of this subsection;

(6) Direct the Department of General Services to identify vacant public buildings or tax-foreclosed buildings to be used as shelter and supportive housing facilities;

(7) Provide input into the District's planning and application for federal funds for services within the Continuum of Care. All applications for federal funds shall take into account the strategic plan developed by the Interagency Council prepared pursuant to paragraph (2) of this subsection;

(8) Have access to data collected and generated by a computerized information system as set up by the Mayor pursuant to § 4-753.02(d). The data may include the number of beds or units available in the District's shelter and supportive housing facilities, the availability of supportive services in the District, and the current usage of and unmet demand for such beds, units, and services;

(9) By September 1 of each year, develop a plan, consistent with the right of clients to shelter in severe weather conditions, describing how member agencies will coordinate to provide hypothermia shelter and identifying the specific sites that will be used as hypothermia shelters; and

(10) Review reports of the fair hearings and administrative reviews requested or received by clients within the Continuum of Care, which shall include the provider party to the appeal, the subject matter of the appeal, and the final disposition of the appeal.

(c) The Mayor shall, no later than February 1 of each year, make available to all Interagency Council members the District's proposed budget breakdown of each agency's appropriations for services within the Continuum of Care. The Interagency Council shall give comments to the Mayor regarding the proposed budget.

(d) Each member agency of the Interagency Council shall:

(1) Conduct or commission an annual audit of any private entity designated by the agency to approve or allocate any grants or contracts, on behalf of the Mayor, for services within the Continuum of Care, and make available a report of the audit to all Interagency Council members;

(2) Offer training and technical assistance to its employees who directly provide services within the Continuum of Care and to any providers with which the member agency or its designee contracts to deliver the services; and

(3) Report to the Interagency Council on a quarterly basis currently available data on the number of individuals and families that applied for homeless services and the number of homeless individual or families that were served by the agency and its contractors.

(Oct. 22, 2005, D.C. Law 16-35, § 5, 52 DCR 8113; Sept. 26, 2012, D.C. Law 19-171, § 33(b), 59 DCR 6190.)

Section references. — This section is referenced in § 4-754.53.

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 substituted

"Department of General Services" for "Office of Property Management" in (b)(6).

Legislative history of Law 19-171. — See note to § 4-752.01.

Subchapter III. Continuum of Care.

§ 4-753.03. Grace period for establishing residency.

Emergency legislation. — For temporary (90 day) addition of section, see § 5102 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of section, see § 5102 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

§ 4-753.04. Fiscal years 2012 and 2013 rapid re-housing.

(a)(1) Beginning in June 2012, the Department shall identify at least 200 homeless families from hotels, motels, severe-weather shelters, temporary shelters, or transitional housing, and ensure that at least 100 of these families are placed in or are residing in apartment-style housing units that meet the requirements of the Rent Supplement Program, established by § 6-226, by before [sic] September 30, 2012.

(2) By October 1, 2012, the Department shall ensure that all homeless families that were residing in hotels or motels have been placed into shelter or housing.

(3) Placements made by the Department pursuant to subsection (a) of this section shall be done in coordination with the District of Columbia Housing Authority (“DCHA”). The Department shall develop rules for selecting homeless families that will be converted onto the Rent Supplement Program’s tenant-based vouchers and submit them to the Council within 45 days of June 19, 2012.

(4) Once there are vacancies in temporary shelters, severe-weather shelters, or transitional housing, the Department shall use all available resources currently budgeted for homeless families to place new family-shelter applicants who cannot access other housing arrangements, as defined in § 4-753.01(c)(4) into shelters or housing.

(b) Beginning in fiscal year 2013, and for each fiscal year thereafter, an additional \$4 million shall be included in the DCHA Subsidy to provide tenant-based rental assistance to between 200 and 300 eligible families in accordance with the Rent Supplement Program, established by § 6-226. DCHA shall provide tenant-based rental assistance through the Rent Supplement Program to all families placed in housing pursuant to subsection (a) of this section who meet the eligibility criteria established for sponsor-based housing assistance under the Rent Supplement Program, set forth in section 9508 of Title 14 of the District of Columbia Municipal Regulations (14 DCMR § 9508).

(Oct. 22, 2005, D.C. Law 16-35, § 8b, as added Sept. 20, 2012, D.C. Law 19-168, § 5102, 59 DCR 8025.)

Effect of amendments. — D.C. Law 19-168 added this section.

Temporary Addition of Section. — Section 2 of D.C. Law 19-236 added D.C. Law

16-35, § 8c to read as follows:

“Sec. 8c. Placement of first priority homeless families for the 2012-2013 hypothermia season.

“For fiscal year 2013, the Mayor and the District of Columbia Housing Authority may fill vacant Rent Supplement Program tenant-based vouchers, established by section 26c of the District of Columbia Housing Authority Act of 1999, effective March 2, 2007 (D.C. Law 16-192; D.C. Official Code § 6-228), with homeless families referred by the Department of Human Services and determined to have first priority to shelter pursuant to 29 DCMR § 2508.01(a)(1), through the end of the 2012-2013 hypothermia season. The referrals shall be made in accordance with the special eligibility criteria set forth in 29 DCMR § 2556 through 29 DCMR § 2558.”

Section 4(b) of D.C. Law 19-236 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary

addition of section, see § 5102 of the Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary addition of D.C. Law 16-35, § 8c, concerning placement of first priority homeless families for the 2012-2013 hypothermia season, see § 2 of the Local Rent Supplement Program Voucher Emergency Amendment Act of 2012 (D.C. Act 19-545, November 16, 2012, 59 DCR 13590).

Legislative history of Law 19-168. — Law 19-168, the “Fiscal Year 2013 Budget Support Act of 2012,” was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

CHAPTER 13. CHILD ABUSE AND NEGLECT.

Subchapter I. Prevention of Child Abuse and Neglect

Part F

Part A

Rules

Reporting Abuse and Neglect

Sec.

4-1306.01. Rules.

Sec.

4-1301.02. Definitions.

4-1301.04. Handling of reports — By Agency.

4-1301.09a. Reasonable efforts.

Subchapter II. Reports of Neglected Children

4-1321.02. Persons required to make reports; procedure.

Subchapter III-A. Integrated Funding and Services for At-Risk Children, Youth, and Families

Part C

Child and Family Services Agency

4-1345.01. Definitions.

4-1303.03. Duties and powers of the Director.

4-1303.03d. Rapid Housing Program assistance.

4-1303.03e. Behavioral health screening and assessment requirements.

4-1303.08. Voluntary Foster Care Registry.

4-1303.09. Voluntary Foster Care Registry Fund.

Subchapter V. Child Fatality Review Committee

4-1371.02. Definitions.

4-1371.05. Criteria for case review.

4-1371.06. Access to information.

4-1371.12. Persons required to make reports; procedure.

Subchapter I. Prevention of Child Abuse and Neglect.

PART A.

REPORTING ABUSE AND NEGLECT.

§ 4-1301.02. Definitions.

For the purposes of this subchapter:

(1) “Abused”, when used in reference to a child, shall have the same meaning as is provided in § 16-2301(23).

(2) “Adoption promotion and support services” means services and activities designed to encourage more adoptions of committed children, when such adoptions promote the best interest of the children, including such activities as pre-and post-adoptive services and activities designed to expedite the adoption process and support adoptive families.

(2A) Except where used in title IV of this act, “Agency” means the Child and Family Services Agency established by § 4-1303.01a.

(2A-i) “Behavioral health” means a person’s overall social, emotional, and psychological well-being and development.

(2A-ii) “Behavioral health assessment” means a more thorough and comprehensive examination by a mental health professional of all behavioral health issues and needs identified during an initial behavioral health screening by which the mental health professional shall identify the type and extent of the behavioral health problem and make recommendations for treatment interventions.

(2A-iii) “Behavioral health screening” means a brief process designed to identify youth who are at risk of having behavioral health disorders that warrant immediate attention, or intervention, or to identify the need for further assessment with a more comprehensive examination.

(2B) “CAC” means Safe Shores, the District of Columbia’s Children’s Advocacy Center.

(3) “Case plan” means a written document concerning a child that includes at least the following:

(A) A description of the type of home or institution in which the child is to be placed, including a discussion of the safety and appropriateness of the placement and how the agency that is responsible for the child plans to carry out the voluntary placement agreement or judicial determination made with respect to the child;

(B) A plan for assuring that the child receives safe and proper care and that services are available to the parents, child, and foster parents in order to improve conditions in the parents’ home, facilitate return of the child to his or her own safe home or to the child’s permanent placement, and address the child’s needs while a committed child, including the appropriateness of services provided to the child under the plan;

(C) To the extent available and accessible, the child’s health and education records;

(D) Where appropriate, for a child 16 years of age or over, a written description of the programs and services which will help the child prepare for the transition from being a committed child to independent living; and

(E) If the child’s permanent plan is adoption or placement in another permanent home, documentation of the steps (including child specific recruitment efforts) taken to accomplish the following:

(i) Find an adoptive family or other permanent living arrangement, such as with a legal custodian, with a kinship caregiver, or in independent living;

(ii) Place the child with an adoptive family, a kinship caregiver, a legal custodian, or in another planned permanent living arrangement; and

(iii) Finalize the adoption or legal custody or guardianship.

(F) In the case of a child with respect to whom the permanency plan is placement with a relative and receipt of kinship guardianship assistance payments under § 16-2399, a description of the:

(i) Steps taken to determine that it is not appropriate for the child to be returned home or adopted;

(ii) Reasons for any separation of siblings during placement;

(iii) Reasons a permanent placement with a fit and willing relative through a kinship guardianship-assistance arrangement is in the child's best interests;

(iv) Ways in which the child meets the eligibility requirements for a kinship guardianship-assistance payment;

(v) Efforts made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons therefore; and

(vi) Efforts made to discuss with the child's parent the kinship guardianship-assistance arrangement, or the reasons the efforts were not made; and

(G) A plan for ensuring the educational stability of the child while in foster care, including:

(i) Assurances that the placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement; and

(ii)(I) An assurance that the Agency has coordinated with appropriate local educational agencies, as defined under section 9101(26) of the Elementary and Secondary Education Act of 1965, approved January 8, 2002 (115 Stat. 1425; 20 U.S.C. § 7801(26)), to ensure that the child remains in the school in which the child is enrolled at the time of placement; or

(II) If remaining in the school the child is enrolled in at the time of placement is not in the best interests of the child, assurances by the Agency and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the new school.

(4) "Child Protection Register" means the confidential index of all reports established pursuant to § 4-1302.01.

(4A) "Consumer reporting agency" means a person or entity that assembles or evaluates consumer credit information or other information on consumers for the purpose of furnishing consumer reports and the disclosure of file information to third parties.

(5) "Credible evidence" means any evidence that indicates that a child is an abused or neglected child, including the statement of any person worthy of belief.

(6) "Director" means the Director of the Child and Family Services Agency established by § 4-1303.01.

(6A) “Domestic partnership” shall have the same meaning as provided in § 32-701(4).

(7) “Drug” shall have the same meaning as the term “controlled substance” has in § 48-901.02(4).

(8) “Drug-related activity” means the use, sale, distribution, or manufacture of a drug or drug paraphernalia without a legally valid license or medical prescription.

(9) “Entry into foster care” means the earlier of:

(A) The date of the first judicial finding that the child has been neglected; or

(B) The date that is 60 days after the date on which the child is removed from the home.

(9A) “Family assessment” means an evaluation, for the purpose of developing a service plan, to determine:

(A) A family’s strengths and needs;

(B) The safety of any children in the home, including assessing whether there exists a risk of abuse or neglect of any child, but excludes a determination as to whether a report of abuse or neglect is substantiated, inconclusive, or unfounded;

(C) A family’s ability to function as a cohesive unit; and

(D) A family’s access to resources.

(10) “Family preservation services” means services for children and families who are at risk of abuse or neglect, or in crisis, including:

(A) Services designed to help children return to families from which they have been removed, or be placed for adoption, where safe and appropriate, with a legal guardian, or, if adoption or legal guardianship is determined not to be safe and appropriate for a child, in another permanent living arrangement;

(B) Replacement prevention services;

(C) Services which provide follow-up care to families to whom a child has returned after commitment;

(D) Respite care services; and

(E) Services designed to improve parenting skills and abilities.

(11) “Family support services” means community-based services to promote the safety and well-being of children and families, and designed to:

(A) Increase family strength and stability;

(B) Increase parent confidence and competence;

(C) Afford children safe, stable, and supportive family environments; and

(D) Otherwise enhance child development.

(12) “God parent” means an individual identified by a relative of the child by blood, marriage, domestic partnership, or adoption, in a sworn affidavit, to have close personal or emotional ties with the child or the child’s family, which pre-dated the child’s placement with the individual.

(13) “Guardian ad litem” means an attorney appointed by the Superior Court of the District of Columbia to represent the child’s best interests in neglect proceedings.

(13A) “Inconclusive report”, means a report, made pursuant to § 4-1321.03, which cannot be proven to be either substantiated or unfounded.

(14) “Kinship caregiver” means an individual who:

(A) Is approved by the Division to provide kinship care;

(B) Is at least 21 years of age;

(C) Is providing, or is willing to provide for, the day-to-day care of a child; and

(D) Either:

(i) Is a relative of the child by blood, marriage, domestic partnership, or adoption; or

(ii) Is a godparent of the child.

(15) “Law enforcement officer” means a sworn officer of the Metropolitan Police Department of the District of Columbia.

(15A) “Neglected child” shall have the same meaning as is provided in § 16-2301(9).

(15B) “Panel” means the Citizen Review Panel established by § 4-1303.51.

(15C) “Placement disruption” means an unplanned move necessary to protect the safety and well-being of the youth.

(16) “Police” means the Metropolitan Police Department of the District of Columbia.

(17) “Report” means a report to the police or the Agency of a suspected or known neglected child.

(18) Repealed.

(19) “Source” means the person or institution from whom a report originates.

(19A) “Substantiated report” means a report, made pursuant to § 4-1321.03, which is supported by credible evidence and is not against the weight of the evidence.

(20) “Time-limited family reunification services” means services and activities provided to a committed child and to the child’s parent, guardian, or custodian in order to facilitate the safe, appropriate, and timely reunification of the child during the 15 months following the child’s entry into foster care. Time-limited family reunification services include:

(A) Individual, group, and family counseling;

(B) Inpatient, residential, or outpatient substance abuse treatment services;

(C) Mental health services;

(D) Assistance to address domestic violence;

(E) Services designed to provide temporary child care and therapeutic services for families; and

(F) Transportation to or from any of the services and activities described in this paragraph.

(20A) “Unfounded report” means a report, made pursuant to § 4-1321.03, which is made maliciously or in bad faith or which has no basis in fact.

(21) Repealed.

(22) “Youth” means an individual under 18 years of age residing in the

District and those classified as youth in the custody of the Agency who are 21 years of age or younger.

(Sept. 23, 1977, D.C. Law 2-22, title I, § 102, 24 DCR 3341; Mar. 15, 1990, D.C. Law 8-87, § 3(a), 37 DCR 50; June 27, 2000, D.C. Law 13-136, § 201(a), 47 DCR 2850; Apr. 4, 2001, D.C. Law 13-277, § 2(a), 48 DCR 2043; Oct. 19, 2002, D.C. Law 14-206, § 2(a), 49 DCR 7815; Apr. 12, 2005, D.C. Law 15-341, § 2(a), 52 DCR 2315; Apr. 13, 2005, D.C. Law 15-354, § 96, 52 DCR 2638; Mar. 2, 2007, D.C. Law 16-191, § 20, 53 DCR 6794; Sept. 12, 2008, D.C. Law 17-231, § 12, 55 DCR 6758; May 27, 2010, D.C. Law 18-162, § 2(a), 57 DCR 3029; Sept. 24, 2010, D.C. Law 18-228, § 2(a), 57 DCR 6926; Mar. 12, 2011, D.C. Law 18-312, § 2(a), 57 DCR 12398; June 7, 2012, D.C. Law 19-141, § 505(a), 59 DCR 3083.)

Section references. — This section is referenced in § 2-1402.21, § 4-1301.06b, § 4-1303.03, § 16-914, and § 42-3505.07.

Effect of amendments.

D.C. Law 18-228 added par. (9A).

D.C. Law 18-312 added pars. (3)(F) and (G).

D.C. Law 19-141 added pars. (2A-i), (2A-ii), (2A-iii), (15C), and (22).

Temporary Repeal of Section. — Section 109 of D.C. Law 19-226 repealed D.C. Law 18-228, § 3.

Section 402(b) of D.C. Law 19-226 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary repeal of D.C. Law 18-228, § 3, see § 109 of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478).

For temporary repeal of D.C. Law 18-228, § 3, see § 109 of the Fiscal Year 2013 Budget Support Technical Clarification Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-604, January 14, 2013, 60 DCR 1045), applicable as of January 10, 2013.

Legislative history of Law 18-228. — Law 18-228, the “Families Together Amendment Act of 2010”, was introduced in Council and assigned Bill No. 18-667, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on June 1, 2010, and June 15, 2010, respectively. Signed by the Mayor on July 7, 2010, it was assigned Act No. 18-472 and transmitted to both Houses of Congress for its review. D.C. Law 18-228 became effective on September 24, 2010.

Legislative history of Law 18-312. — Law 18-312, the “Prevention of Child Abuse and Neglect Amendment Act of 2010”, was introduced in Council and assigned Bill No. 18-579, which was referred to the Committee on Human Services, Public Safety and the Judiciary. The Bill was adopted on first and second read-

ings on November 9, 2010, and November 23, 2010, respectively. Signed by the Mayor on December 13, 2010, it was assigned Act No. 18-633 and transmitted to both Houses of Congress for its review. D.C. Law 18-312 became effective on March 12, 2011.

Legislative history of Law 19-141. — Law 19-141, the “South Capitol Street Memorial Amendment Act of 2012”, was introduced in Council and assigned Bill No. 19-211, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 6, 2012, and March 20, 2012, respectively. Signed by the Mayor on April 10, 2012, it was assigned Act No. 19-344 and transmitted to both Houses of Congress for its review. D.C. Law 19-141 became effective on June 7, 2012.

Editor’s notes.

Section 3 of D.C. Law 18-228 provided: “Sec. 3. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.”

The Budget Director of the Council of the District of Columbia has determined, as of February 15, 2012, that the fiscal effect of D.C. Law 18-228 has not been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by D.C. Law 18-228, are not in effect.

The Budget Director of the Council of the District of Columbia has determined, as of October 10, 2012, that the fiscal effect of Title III of D.C. Law 18-228 has been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by D.C. Law 18-228, are in effect. Section 109 of emergency D.C. Act 19-482 repealed section 3 of D.C. Law 18-228.

Section 601 of D.C. Law 19-141 originally provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. Section 601 of D.C. Law 19-141, as amended by D.C. Law 19-168, § 7004, provided that the applicability of only

§§ 302(b)(1), 304, and 502(a) are contingent upon the inclusion of their fiscal effect in an approved budget and financial plan.

LAW REVIEWS AND JOURNAL COMMENTARIES

“Reparative” Therapy: Whether Parental Attempts To Change A Child’s Sexual Orientation Can Legally Constitute Child Abuse, 49 American University Law Review, The 505.

§ 4-1301.04. Handling of reports — By Agency.

(a)(1) The Agency shall conduct a thorough investigation of a report of suspected child abuse or neglect to protect the health and safety of the child or children when a report involves a child fatality, suspected sex abuse, or the Agency suspects a child is at imminent risk of or has experienced abuse or neglect that the Agency determines to be severe.

(2) For all other reports of suspected child abuse or neglect, the Agency, directly or through a contractor or another appropriate District agency, shall conduct either a thorough investigation or a family assessment. A family’s cooperation with the family assessment and its acceptance of services offered pursuant to the assessment shall be voluntary; provided, that there are no child-safety concerns.

(3) If at any time the Agency determines that a report referred for family assessment should be re-referred for an investigation, the Agency shall commence an investigation pursuant to subsections (b), (c), and (d) of this section and the requirements of this subchapter.

(4) If the family assessment determines that the family needs services, the Agency, directly or through a contractor or another appropriate District agency, shall assist the family in obtaining these services.

(5) The family assessment shall commence as soon as possible, but no later than 5 days after the Agency’s receipt of the report, and shall include seeing the child and all other children in the household within that 5-day period; provided, that the report does not involve a child who is at imminent risk of or has experienced abuse or neglect that the Agency determines to be severe, in which case the report shall be referred for investigation.

(6) If at any time the Agency finds, through an evaluation, that the time period of 5 days to commence a family assessment is not serving the best interest of families and children, it shall re-evaluate its practices regarding commencement and implementation of the family assessment, comparing its practices with national standards and best practices. The Agency shall report the conclusions of any re-evaluation to the Council, along with recommendations, if any, for legislative initiatives that address the conclusions of the report.

(b) The investigation shall commence:

(1) Immediately upon receiving a report of suspected abuse or neglect or a referral for investigation following a family assessment indicating that the child’s safety or health is in immediate danger; and

(2) As soon as possible, and at least within 24 hours, upon receiving any report or a referral for investigation following a family assessment not involving immediate danger to the child.

(c) The initial phase of the investigation shall:

- (1) Be completed within 24 hours of its commencement;
- (2) Include notification and coordination with the Metropolitan Police Department when there is indication of a crime, including sexual or serious physical abuse; and
- (3) Include:
 - (A) Seeing the child and all other children in the household outside of the presence of the caretaker or caretakers;
 - (B) Conducting an interview with the child's caretaker or caretakers;
 - (C) Speaking with the source of the report;
 - (D) Assessing the safety and risk of harm to the child from abuse or neglect in the place where the child lives;
 - (E) Deciding on the safety of the child and of other children in the household;
 - (F) Deciding on the safety of other children in the care or custody of the person or persons alleged to be abusing or neglecting the child; and
 - (G) A finding as to whether the report of abuse or neglect is substantiated, inconclusive, or unfounded, unless at any time during the investigation the Director determines it appropriate to refer the family for a family assessment and suspends the investigation to complete a family assessment in accordance with rules issued pursuant to § 4-1306.01(d).

(d) The Agency may request the assistance of the Metropolitan Police Department to assist in the investigation or to ensure the safety of Agency staff.

(e)(1) Repealed.

(2) On or before December 15, 2011, the Agency shall submit a written report to the Council's Committee on Human Services detailing the Agency's progress toward using family assessments as authorized by this section, which shall include:

- (A) A detailed review of the steps taken to phase in full implementation of this alternative to investigation;
- (B) An evaluation of the strengths and needs of the implementation process; and
- (C) Whether additional funding will be needed in fiscal year 2013 for expanded implementation.

(Sept. 23, 1977, D.C. Law 2-22, title I, § 104, 24 DCR 3341; Apr. 4, 2001, D.C. Law 13-277, § 2(b), 48 DCR 2043; Apr. 12, 2005, D.C. Law 15-341, § 2(b), 52 DCR 2315; Sept. 24, 2010, D.C. Law 18-228, § 2(b), 57 DCR 6926; Sept. 14, 2011, D.C. Law 19-21, § 5052(a), 58 DCR 6226.)

Section references. — This section is referenced in § 4-1301.06a, § 4-1303.03, and § 4-1303.04.

Effect of amendments.

D.C. Law 18-228 rewrote the section.

D.C. Law 19-21 repealed subsec. (e)(1); and, in subsec. (e)(2), substituted "December 15, 2011" for "October 1, 2010" in the lead-in language, substituted "to phase in full implemen-

tation of this alternative to investigation;" for "toward full implementation of this alternative to investigation; and" in subpar. (A), substituted "process; and" for "process." in subpar. (B), and added subpar. (C).

Temporary Repeal of Section. — Section 109 of D.C. Law 19-226 repealed D.C. Law 18-228, § 3.

Section 402(b) of D.C. Law 19-226 provided

that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary repeal of D.C. Law 18-228, § 3, see § 109 of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478).

For temporary repeal of D.C. Law 18-228, § 3, see § 109 of the Fiscal Year 2013 Budget Support Technical Clarification Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-604, January 14, 2013, 60 DCR 1045), applicable as of January 10, 2013.

Legislative history of Law 18-228. — For Law 18-228, see notes following § 4-1301.02.

Legislative history of Law 19-21. — For history of Law 19-21, see notes under § 4-204.07.

Editor's notes.

Section 3 of D.C. Law 18-228 provided: "Sec.

3. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan."

The Budget Director of the Council of the District of Columbia has determined, as of February 15, 2012, that the fiscal effect of D.C. Law 18-228 has not been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by D.C. Law 18-228, are not in effect.

The Budget Director of the Council of the District of Columbia has determined, as of October 10, 2012, that the fiscal effect of Title III of D.C. Law 18-228 has been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by D.C. Law 18-228, are in effect. Section 109 of emergency D.C. Act 19-482 repealed section 3 of D.C. Law 18-228.

§ 4-1301.09a. Reasonable efforts.

(a) In determining and making reasonable efforts under this section, the child's safety and health shall be the paramount concern.

(b)(1) Except as provided in subsection (c) of this section, reasonable efforts shall be made to preserve and reunify the family by the Agency.

(2) These reasonable efforts shall be made prior to the removal of a child from the home in order to prevent or eliminate the need for removing the child, unless the provision of services would put the child in danger.

(3) Reasonable efforts shall be made to make it possible for the child to return safely to the child's home.

(c) If reasonable efforts as required by subsection (b) of this section are determined to be inconsistent with the child's permanency plan, the Agency shall make reasonable efforts to place the child in accordance with the child's permanency plan and to complete whatever steps are necessary to finalize the child's permanent placement.

(d) The Agency shall not be required to make reasonable efforts to preserve and reunite the family with respect to a parent if:

(1) A court of competent jurisdiction has determined that the parent:

(A) Subjected the child who is the subject of a petition before the Family Court of the Superior Court of the District of Columbia ("Family Court"), a sibling of the child, or another child to cruelty, abandonment, torture, chronic abuse, or sexual abuse;

(B) Committed the murder or voluntary manslaughter of a sibling of the child who is the subject of a petition before the Family Court or another child, or of any other member of the household of the parent;

(C) Aided, abetted, attempted, conspired, or solicited to commit the murder or voluntary manslaughter of the child who is the subject of a petition before the Family Court, a sibling of the child, or another child, or of any other member of the household of the parent; or

(D) Committed an assault that constitutes a felony against the child

who is the subject of a petition before the Family Court, a sibling of the child, or another child;

(2) The parent's parental rights have been terminated involuntarily with respect to a sibling.

(e) If reasonable efforts are not made pursuant to subsection (d) of this section:

(1) A permanency hearing conducted pursuant to § 16-2323 shall be held for the child within 30 days after the determination that reasonable efforts are not required; and

(2) Reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.

(f) Reasonable efforts to place a child for adoption, with an approved kinship caregiver, with a legal custodian or guardian, or in another permanent placement may be made concurrently with the reasonable efforts required by subsection (b) of this section.

(Sept. 23, 1977, D.C. Law 2-22, title I, § 109a, as added June 27, 2000, D.C. Law 13-136, § 201(c), 47 DCR 2850; Apr. 4, 2001, D.C. Law 13-277, § 2(h), 48 DCR 2043; Apr. 12, 2005, D.C. Law 15-341, § 2(e), 52 DCR 2315; July 13, 2012, D.C. Law 19-164, § 2, 59 DCR 6185.)

Section references. — This section is referenced in § 16-2323 and § 16-2354.

Effect of amendments.

D.C. Law 19-164, in the lead-in language of subsec. (d), substituted “efforts to preserve and reunite the family” for “efforts”; in subsec. (d)(1)(A), substituted “the child who is the subject of a petition before the Family Court of the Superior Court of the District of Columbia (“Family Court”), a sibling of the child, or another child” for “a sibling or another child”; in subsec. (d)(1)(B), substituted “a sibling of the child who is the subject of a petition before the Family Court” for “a sibling”; in subsec. (d)(1)(C), substituted “the child who is the subject of a petition before the Family Court, a sibling of the child, or another child” for “a sibling or another child”; in subsec. (d)(1)(D),

substituted “Family Court, a sibling of the child, or another child,” for “Family Division of the Superior Court, a sibling of such a child, or another child; or”; in subsec. (d)(2), substituted “sibling; or” for “sibling.”; and added subsec. (d)(3).

Legislative history of Law 19-164. — Law 19-164, the “Child Abuse Prevention and Treatment Amendment Act of 2012”, was introduced in Council and assigned Bill No. 19-466, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on April 17, 2012, and May 1, 2012, respectively. Signed by the Mayor on May 17, 2012, it was assigned Act No. 19-374 and transmitted to both Houses of Congress for its review. D.C. Law 19-164 became effective on July 13, 2012.

PART C.

CHILD AND FAMILY SERVICES AGENCY.

§ 4-1303.03. Duties and powers of the Director.

(a) The Director of the Agency shall have the following duties and powers, any of which may be contracted for, as appropriate, with private or other public agencies:

(1) Receive and investigate reports of abuse or neglect as provided in subchapter II of this chapter, § 4-1301.04 and § 4-1301.06 and assist in the

determination of the need for the removal of an abused or neglected child as provided in § 4-1301.07;

(2) Within 90 days of taking a child into custody pursuant to § 4-1303.04(c)(1), return the child to the home or to request that the Office of the Attorney General file a neglect petition in the Family Division of the Superior Court of the District of Columbia;

(3) To maintain a program of treatment and services for families of neglected and abused children including services designed to help children, where safe and appropriate, return to families from which they have been removed;

(4)(A) To prepare annually a plan for child protective services, which shall be reviewed and commented on by the Mayor's Committee on Child Abuse and Neglect, and which shall:

(i) Describe the Agency's implementation of the Adoption and Safe Families Amendment Act of 2000, effective June 27, 2000 (D.C. Law 13-136; 47 DCR 2850), including its organization, staffing, method of operations and financing, and programs and procedures for the receipt, investigation and verification of reports;

(ii) Describe the provisions for the determination of protective services and the treatment of ameliorative service needs, and the provision of such services;

(iii) State the guidelines for referrals to the Family Division of the Superior Court of the District of Columbia; and

(iv) State the provisions for monitoring, evaluation, and planning.

(B) The first plan shall be made available to the public within 90 days of June 27, 2000;

(5) To encourage and assist in the formation of child abuse and neglect teams in hospitals, health and mental health clinics, and other appropriate facilities in the District of Columbia; and

(6) To take whatever additional actions are necessary to accomplish the purposes of the Adoption and Safe Families Amendment Act of 2000, effective June 27, 2000 (D.C. Law 13-136; 47 DCR 2850).

(7) To provide services to families and children who are eligible for such services, consistent with the requirements of this subchapter, through programs of services to families with children, child protective services, foster care, and adoption;

(8) To maintain a 24-hour, 7-days-a-week intake component to receive reports of suspected child abuse or neglect. The intake component shall be staffed at all times by workers specially trained in intake and crisis intervention and shall maintain:

(A) The capacity for receiving reports and for responding promptly with investigation and emergency services;

(B) A widely publicized telephone number for receiving reports at all times; and

(C) Sufficient telephone lines and qualified staff so that all calls will be answered immediately by a trained worker;

(9) To receive reports of suspected child abuse and neglect;

(10) To conduct a social service investigation of alleged child abuse and neglect cases, including joint investigation with the Metropolitan Police Department;

(11) To provide and maintain, for families of children who have been abused or neglected, a program of treatment and services designed to promote the safety of children, reunification of families, and timely permanent placements;

(12) Repealed.

(13) To provide protective service clients appropriate services necessary for the preservation of families, or to contract with private or other public agencies for the purpose of carrying out this duty. These services may include:

(A) Emergency financial aid;

(B) Emergency caretakers;

(C) Homemakers;

(D) Family shelters;

(E) Emergency foster homes;

(F) Facilities providing medical, psychiatric, and other therapeutic services;

(G) Day care;

(H) Parent aides;

(I) Lay therapists; and

(J) Respite care;

(14) To offer rehabilitative services to the child's family in an effort to reunify the family when a child has been adjudicated a neglected child and placed in foster care;

(15) To immediately, upon court direction, implement the concurrent or alternative plan for the permanent placement of a child when time-limited family reunification services, as defined in § 4-1301.02(19), have failed to reunite a child in foster care with his or her family or when § 16-2354 applies;

(16)(A) To request from a consumer reporting agency that compiles and maintain files on consumers on a nationwide basis and is nationally ranked among the top 3 such agencies, the disclosure of file information pursuant to section 609 of the federal Fair Credit Reporting Act, approved October 26, 1970 (84 Stat. 1131; 15 U.S.C. § 1681g), on behalf of a ward of the Agency under the age of 18 years to determine whether identify theft has occurred, when:

(i) An adoption petition has been filed in the Superior Court of the District of Columbia;

(ii) A motion for guardianship has been filed in the Superior Court of the District of Columbia; or

(iii) The Agency anticipates that the jurisdiction of the Family Court of the Superior Court of the District of Columbia will be terminated.

(B) The Agency shall provide the disclosed file information to the ward's guardian ad litem within 30 days of obtaining the results.

(C) For a ward over the age of 18 years, the Agency shall assist the ward if the ward wants to obtain disclosure of file information prior to the termination of the jurisdiction of the Family Court of the Superior Court of the District of Columbia.

(D) If the Agency determines that disclosed file information indicates that identity theft may have occurred, the Agency shall refer the ward to an approved organization that provides credit counseling to victims of identity theft; provided, that the Agency shall not be responsible for providing assistance beyond a referral.

(E) Within 120 days of May 27, 2010, the Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], shall issue rules to implement the provisions of this paragraph. The proposed rules shall be submitted to the Council for a 30-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within the 30-day review period, the proposed rules shall be deemed approved;

(17) To establish and maintain the Voluntary Foster Care Registry, established pursuant to § 4-1303.08 as a post-care service, for individuals 18 years or older who were or currently are respondents in a child abuse or neglect case under Chapter 23 of Title 16 and for their immediate birth family members, as defined in § 4-1303.08(g);

(18) To offer employment counseling to foster children, as defined by § 4-342(3), who are ages 18 through 21 years old; and

(19)(A) When requested by a foster child or former foster child who is 18 years of age or older, to provide a letter verifying the person's status as a foster child or former foster child pursuant to § 1-608.01(e-1); and

(B) To record and track the number of foster children or former foster children who request a letter from the Child and Family Services Agency verifying their status pursuant to subparagraph (A) of this paragraph.

(a-1) The Director of the Agency shall have the following additional duties and powers:

(1) To take into custody and place in shelter care, in accordance with subchapter I of Chapter 23 of Title 16, children who have been abused or neglected;

(2) To develop and test innovative models of practice consistent with the purposes of this subchapter;

(3) To develop programs that deliver a broad range of child and family services, including programs that involve the participation of community and neighborhood-based groups in prevention and intervention services;

(3A)(A) To issue grants to community and neighborhood-based groups for programs that deliver prevention and intervention services; provided, that the Director submits an annual report to the Council that includes the recipient, amount, purpose, and term of each grant issued, and a description of outcomes to be achieved and an evaluation of whether or not those outcomes have been achieved for each grant issued.

(B) A grant in excess of \$1 million shall be submitted to the Council for approval in accordance with § 1-204.51.

(4) To facilitate:

(A) Permanent placement of a child, including reunification with original caretakers where such placement is consistent with the child's safety;

(B) Permanent placement with relatives; and

(C) Adoptive placement, as appropriate;

(5) To facilitate meetings for a child in foster care with parents, siblings, relatives, and extended family members;

(6) To provide other programs and services that are consistent with the purposes of this subchapter;

(7) To monitor and evaluate services to and needs of abused and neglected children and their families;

(8) To be the personnel authority for all employees of the Agency, including the exercise of full authority to hire, retain, and terminate personnel, consistent with Chapter 6 of Title 1;

(9) By delegation from the Mayor, and independent of the Office of Contracting and Procurement, to exercise procurement authority to carry out the purposes of the Agency, including contracting and contract oversight, consistent with Chapter 3A of Title 2 [§ 2-351.01 et seq.]; except, that § 2-352.01(a) shall not apply;

(10) Starting not later than October 1, 2001, and notwithstanding the licensing powers and responsibilities given to other District agencies and officials in subchapters I-A and I-B of Chapter 28 of Title 47, to be the exclusive agency to regulate foster and group homes for children who have been abused or neglected and to regulate child placement agencies for these children. For the purposes of this paragraph, the term “regulate” means all licensing, and related functions, except fire inspections and the issuance of certificates of occupancy and all inspections relating to those certificates;

(11) Starting not later than October 1, 2001, to be the “appropriate authority,” under § 4-1421 for children who have been abused or neglected;

(12) To adopt regulations to carry out the purposes of this subchapter, in accordance with Chapter 5 of Title 2; and

(13) To take whatever additional actions are necessary to accomplish the purposes of this subchapter.

(b) The Agency, or the person or agency the Agency contracts with, shall:

(1) When a child is at risk of being removed from his or her home because of child abuse or neglect, provide family preservation services designed to help the child remain safely with his or her family;

(2) When a child has been adjudicated a neglected child and committed to the Agency, offer rehabilitative services to the child’s family including time-limited family reunification services designed to help the child, where safe and appropriate, return to the family from which he or she has been removed;

(3) When time-limited family reunification services have failed to reunite a committed child and his or her family, take steps to implement a permanent plan of adoption or an alternative permanent plan for the child;

(4) Establish or attempt to secure priority access for protective service clients, by contract or agreement with private organizations, other public agencies, or other Agency units, to services necessary for the preservation or reunification of families which may include, but not be limited to:

(A) Emergency financial aid;

(B) Emergency caretakers;

(C) Homemakers;

- (D) Family shelters and housing assistance;
- (E) Emergency foster homes;
- (F) Mental health services, including facilities providing medical, psychiatric, or other therapeutic services;
- (G) Day care;
- (H) Parent aides and lay therapists;
- (I) Domestic violence services;
- (J) Respite care; and
- (K) Substance abuse assessment and treatment;
- (5) Monitor and evaluate the services to, and the needs of, neglected children and their families;
- (6) Compile and publish training materials; and
- (7) Provide technical assistance on neglect prevention, identification, and treatment;
- (8) Develop and implement, as soon as possible, standards that provide for quality services that protect the safety and health of children, for children who are removed from their homes;
- (9) Develop and operate programs of family preservation services, family support services, time-limited family reunification services, and adoption promotion and support services;
- (9A) Offer meeting facilitation services for extended family members when appropriate to meet permanency and safety goals as established by the Adoption and Safe Families Amendment Act of 2000, effective June 27, 2000 (D.C. Law 13-136; 47 DCR 2850);
- (9B) Develop procedures and practices for cooperation and joint activities with the Metropolitan Police Department; and
- (10) Prepare and submit to the Mayor, the Council, and the public a report to be submitted no later than February 1 of each year; which shall include:
 - (A) A description of the specific actions taken to implement the Adoption and Safe Families Amendment Act of 2000, effective June 27, 2000 (D.C. Law 13-136; 47 DCR 2850);
 - (B) A full statistical analysis of cases including:
 - (i) The total number of children in care, their ages, legal statuses, and permanency goals;
 - (ii) The number of children who entered care during the previous year (by month), their ages, legal statuses, and the primary reasons they entered care;
 - (iii) The number of children who have been in care for 24 months or longer, by their length of stay in care, including:
 - (I) A breakdown in length of stay by permanency goal;
 - (II) The number of children who became part of this class during the previous year; and
 - (III) The ages and legal statuses of these children;
 - (iv) The number of children who left care during the previous year (by month), the number of children in this class who had been in care for 24 months or longer, the ages and legal statuses of these children, and the reasons for their removal from care; and

(v) The number of children who left care during the previous year, by permanency goal; their length of stay in care, by permanency goal; the number of children whose placements were disrupted during the previous year, by placement type; and the number of children who re-entered care during the previous year;

(C) An analysis of any difficulties encountered in reaching the goal for the number of children in care established by the District;

(D) An evaluation of services offered, including specific descriptions of the family preservation services, community-based family support services, time-limited family reunification services, and adoption promotion and support services including:

(i) The service programs which will be made available under the plan in the succeeding fiscal year;

(ii) The populations which the program will serve; and

(iii) The geographic areas in which the services will be available;

(E) An evaluation of the Agency's performance;

(F) Recommendations for additional legislation or services needed to fulfill the purpose of the Adoption and Safe Families Amendment Act of 2000, effective June 27, 2000 (D.C. Law 13-136; 47 DCR 2850); and

(G) The comments submitted by a multidisciplinary committee that works to prevent child abuse and neglect and which the Mayor designates to receive and comment on the report.

(11) At all stages of a neglect case, the presumption shall be that a child will attend the same school that he or she would have attended but for the child's removal from his or her home, unless the Agency determines that it is not in the child's best interest to do so. The Agency shall determine the child's best interest in consultation with parents, when feasible, the child, resource providers, guardian ad litem, and other significant persons.

(c) The Director of the Agency shall implement the Protection of Children from Exposure to Drug-related Activity Amendment Act of 1989, effective March 15, 1990 (D.C. Law 8-87; 37 DCR 50). The Chief of the Division and the Director of the Department of Human Services shall provide the services authorized pursuant to this section to a child who is abused as a result of inadequate care, control, or diminished subsistence due to exposure to drug-related activity.

(d) The safety of the children being served shall be the paramount concern of the Agency in administering and conducting its duties and responsibilities under this section.

(Sept. 23, 1977, D.C. Law 2-22, title III, § 303, 24 DCR 3341; Mar. 15, 1990, D.C. Law 8-87, § 3(e), 37 DCR 50; June 27, 2000, D.C. Law 13-136, § 201(d), 47 DCR 2850; Apr. 4, 2001, D.C. Law 13-277, § 2(o), 48 DCR 2043; Oct. 26, 2001, D.C. Law 14-42, § 13, 48 DCR 7612; Apr. 12, 2005, D.C. Law 15-341, § 2(i), 52 DCR 2315; Apr. 13, 2005, D.C. Law 15-354, § 95, 52 DCR 2638; July 18, 2008, D.C. Law 17-199, § 2, 55 DCR 6285; May 27, 2010, D.C. Law 18-162, § 2(b), 57 DCR 3029; Sept. 24, 2010, D.C. Law 18-230, § 301(a), 57 DCR 6951; Mar. 12, 2011, D.C. Law 18-312, § 2(b), 57 DCR 12398; July 13, 2012, D.C. Law

19-162, § 2, 59 DCR 5713; Sept. 26, 2012, D.C. Law 19-171, §§ 35, 208, 59 DCR 6190.)

Section references. — This section is referenced in § 4-1301.06, § 4-1303.03a, § 4-1303.04, and § 4-1303.05.

Effect of amendments.

D.C. Law 18-230, in subsec. (a), deleted “and” from the end of par. (15); substituted “; and” for a period at the end of par. (16), and added par. (17).

D.C. Law 18-312 added subsec. (b)(11).

D.C. Law 19-162 added subsecs. (a)(18) and (19).

The 2012 amendment by D.C. Law 19-171 validated the subsection designations in (a); and substituted “consistent with Chapter 3A of Title 2 et seq.; except, that § 2-352.01(a) shall not apply” for “consistent with Unit A of Chapter 3 of Title 2, except § 2-301.05(a), (b), (c), and (e)” in (a-1)(9).

Temporary Repeal of Section. — Section 110 of D.C. Law 19-226 repealed D.C. Law 18-230, § 701.

Section 402(b) of D.C. Law 19-226 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary repeal of D.C. Law 18-230, § 701, see § 110 of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478).

For temporary repeal of D.C. Law 18-230, § 701, see § 110 of the Fiscal Year 2013 Budget Support Technical Clarification Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-604, January 14, 2013, 60 DCR 1045), applicable as of January 10, 2013.

Legislative history of Law 18-230. — For Law 18-230, see notes following § 4-301.

Legislative history of Law 18-312. — For history of Law 18-312, see notes under § 4-1301.02.

Legislative history of Law 19-162. — Law 19-162, the “Foster Care Youth Employment Amendment Act of 2012”, was introduced in Council and assigned Bill No. 19-691, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on April 17, 2012, and May 1, 2012, respectively. Signed by the Mayor on May 16, 2012, it was assigned Act No. 19-372 and transmitted to both Houses of Congress for its review. D.C. Law 19-162 became effective on July 13, 2012.

Legislative history of Law 19-171. — Law 19-171, the “Technical Amendments Act of 2012,” was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Editor’s notes.

Section 701 of D.C. Law 18-230 provided: “Sec. 701. Applicability. Title III of this act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.”

The Budget Director of the Council of the District of Columbia has determined, as of February 15, 2012, that the fiscal effect of Title III of Law 18-230 has not been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by title III of Law 18-230, are not in effect.

The Budget Director of the Council of the District of Columbia has determined, as of October 10, 2012, that the fiscal effect of Title III of Law 18-230 has been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by Title III of Law 18-230, are in effect. Section 110 of emergency D.C. Act 19-482 repealed section 701 of D.C. Law 18-230.

LAW REVIEWS AND JOURNAL COMMENTARIES

“Combatting unnecessary family separation: How to seek court-ordered housing for families

in the District of Columbia neglect system.” 2 District of Columbia Law Review 25 (1993).

§ 4-1303.03d. Rapid Housing Program assistance.

(a) The Agency shall track and publicly report the number of emancipating youth and families who apply for or are referred for assistance under the Rapid Housing Program, the number of youth and families who are eligible for assistance, and the number of youth and families who receive assistance.

(b) The Agency shall maintain a waiting list of emancipating youth and

families who are eligible but cannot receive assistance due to insufficient funds.

(Sept. 23, 1977, D.C. Law 2-22, § 303d as added Mar. 3, 2010, D.C. Law 18-111, § 5181, 57 DCR 181; Sept. 26, 2012, D.C. Law 19-171, § 36, 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 redesignated D.C. Law 2-22, § 303x as D.C. Law 2-22, § 303d.

Legislative history of Law 19-171. — See note to § 4-1303.03.

§ 4-1303.03e. Behavioral health screening and assessment requirements.

(a) All children in the custody of the Agency shall, to the extent that it is not inconsistent with a court order, receive a behavioral health screening and, if necessary, a behavioral health assessment within 30 days of initial contact with the Agency or a placement disruption. Through rulemaking, the Mayor may reduce the number of days within which a behavioral health screening and behavioral health assessment are required.

(b) The Agency shall connect all children who are assessed as being in need of behavioral health care to an appropriate behavioral health service.

(c) The Agency shall provide the behavioral health resource guide for parents and legal guardians and the behavioral health resource guide for youth created pursuant to § 7-1131.18 to families of children in Agency custody.

(Sept. 23, 1997, D.C. Law 2-22, § 303e, as added June 7, 2012, D.C. Law 19-141, § 505(b), 59 DCR 3083.)

Emergency legislation. — For temporary (90 day) amendment of section 601 of D.C. Law 19-141, see § 7004 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section 601 of D.C. Law 19-141, see § 7004 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-141. — For history of Law 19-141, see notes under § 4-1301.02.

Editor's notes. — Section 601 of D.C. Law 19-141 provided: "Sec. 601. Applicability. This

act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan."

Section 601 of D.C. Law 19-141 originally provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. Section 601 of D.C. Law 19-141, as amended by D.C. Law 19-168, § 7004, provided that the applicability of only §§ 302(b)(1), 304, and 502(a) are contingent upon the inclusion of their fiscal effect in an approved budget and financial plan.

Section 7016 of D.C. Law 19-168 provided that Sections 7001, 7004, 7007, 7009, 7011, and 7015 of the act shall apply as of June 19, 2012.

§ 4-1303.08. Voluntary Foster Care Registry.

(a) For the purposes of this section, the term:

(1) "Immediate birth family member" means a person 18 years of age or older who is the birth mother, father, or sibling of a registrant.

(2) "Registrant" means an individual, 18 years of age or older, who was, or currently is, a respondent in a child abuse or neglect case under Chapter 23 of Title 16 or his or her immediate birth family member.

(3) "Registry" means the Voluntary Foster Care Registry established by subsection (b) of this section.

(b) Within 180 days of September 24, 2010, the Agency shall establish the Voluntary Foster Care Registry ("Registry") for a registrant who seeks to reconnect with his or her immediate birth family member to place otherwise personal confidential information in the Registry to aid in that endeavor.

(c) To use the Registry, an applicant shall:

(1) Complete a registration form, which shall include:

(A) Proof that the applicant qualifies as a registrant, as defined in subsection (a) of this section, including the following information, to the extent known, pertaining to both the applicant and the individual being sought:

- (i) Name;
- (ii) Previous name;
- (iii) Address;
- (iv) Telephone number;
- (v) Name of adoptive parents, if applicable; and
- (vi) Name of birth mother and father;

(B) The name and address of the child placement agency that placed the child for adoption, if applicable; and

(C) A statement of consent to be identified to other registrants who are matched as immediate birth family members, including a statement whether the registrant consents to be identified to any immediate birth family member who registers or only to specific immediate birth family members. If the registrant consents to be identified only to specific immediate birth family members, the statement shall indicate by name or relationship which immediate birth family members for whom the consent is valid;

(2)(A) Except as provided in subparagraph (B) of the paragraph, pay a one-time fee, to be established by rule, which may be waived or reduced for individuals with verified income at or below the national poverty level.

(B) A registrant who, at the time he or she registers, is the respondent in an open neglect case under Chapter 23 of Title 16 shall not be required to pay a fee.

(d) A registrant shall provide changes in the information in the Registry occurring after registration to the Agency. The Agency shall timely input the updated information in the Registry.

(e) A registrant may withdraw from the Registry at any time by submitting a notarized affidavit to the Agency that contains the registrant's name and a request to be removed from the Registry.

(f)(1) Upon receipt of a completed registration and the applicable fee, the Agency, or its designee, shall search the Registry for potential matching immediate birth family members.

(2) In addition to the Registry search, the Agency may inquire into the records of:

- (A) Child placement agencies;
- (B) Local departments of social services;

(C) The court, which shall grant the Agency access to the court record upon receipt of a petition from the Agency that provides proof of consent of the

parties to disclosure of the information, as evidenced in the registration forms, and states that review of the record is needed to make a match or to provide matching information; and

(D) The Vital Records Division of the Department of Health.

(3) Prior to releasing any identifying information to a registrant, the Agency shall verify that the registrant consents to have his or her identifying information released to a immediate birth family member who is a registrant. The Agency shall also obtain substantiation of a familial relationship from a reliable, independent third-party source, as established by rule and upon whom the Agency did not rely in conducting its search. A third-party independent source may include:

(A) The child placement agency that placed the child for adoption;

(B) The Vital Records Division of the Department of Health; or

(C) The Family Court of the Superior Court of the District of Columbia.

(4) A match shall be ascertained between the child and an immediate birth family member if:

(A) The child and the child's birth mother and birth father are registrants;

(B) The child and one or more birth siblings are registrants; or

(C) The child and only one birth parent are registrants.

(5) Information shall be provided regarding only those immediate birth family members who are registrants.

(g)(1) The Registry shall retain information and documents collected until the date specified by the registrant or for 99 years, whichever occurs first.

(2)(A) Registry documents and information shall be destroyed in accordance with the District procedure for disposal of confidential information.

(B) Information in the Registry may not be disclosed except as provided by this subchapter or regulations issued pursuant to this subchapter, or pursuant to a court order.

(h) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, shall issue rules to implement the provisions of this section.

(Sept. 23, 1977, D.C. Law 2-22, title III, § 308, as added Sept. 24, 2010, D.C. Law 18-230, § 301(b), 57 DCR 6951.)

Section references. — This section is referenced in § 4-1303.03 and § 4-1303.09.

Temporary Repeal of Section. — Section 110 of D.C. Law 19-226 repealed D.C. Law 18-230, § 701.

Section 402(b) of D.C. Law 19-226 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary repeal of D.C. Law 18-230, § 701, see § 110 of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478).

For temporary repeal of D.C. Law 18-230, § 701, see § 110 of the Fiscal Year 2013 Budget Support Technical Clarification Congressional

Review Emergency Amendment Act of 2012 (D.C. Act 19-604, January 14, 2013, 60 DCR 1045), applicable as of January 10, 2013.

Legislative history of Law 18-230. — For Law 18-230, see notes following § 4-301.

Editor's notes. — Section 701 of D.C. Law 18-230 provided: "Sec. 701. Applicability. Title III of this act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan."

The Budget Director of the Council of the District of Columbia has determined, as of February 15, 2012, that the fiscal effect of Title III of D.C. Law 18-230 has not been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by title III of D.C. Law 18-230, are not in effect.

The Budget Director of the Council of the District of Columbia has determined, as of October 10, 2012, that the fiscal effect of Title III of D.C. Law 18-230 has been included in an approved budget and financial plan. Therefore,

the provisions of this section, enacted by title III of D.C. Law 18-230, are in effect. Section 110 of emergency D.C. Act 19-482 repealed section 701 of D.C. Law 18-230.

§ 4-1303.09. Voluntary Foster Care Registry Fund.

(a) There is established as a nonlapsing fund the Voluntary Foster Care Registry Fund (“VFCR Fund”), into which shall be deposited all fees collected pursuant to § 4-1303.08(c)(2)(A) and any gift or appropriation intended to assist in the funding of the Voluntary Foster Care Registry, which shall be solely used to cover the costs of administering the Voluntary Foster Care Registry.

(b) All funds deposited into the VFCR Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the purpose set forth in subsection (a) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(Sept. 23, 1977, D.C. Law 2-22, title III, § 309, as added Sept. 24, 2010, D.C. Law 18-230, § 301(b), 57 DCR 6951.)

Effect of amendments. — D.C. Law 18-230 added this section.

Temporary Repeal of Section. — Section 110 of D.C. Law 19-226 repealed D.C. Law 18-230, § 701.

Section 402(b) of D.C. Law 19-226 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary repeal of D.C. Law 18-230, § 701, see § 110 of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478).

For temporary repeal of D.C. Law 18-230, § 701, see § 110 of the Fiscal Year 2013 Budget Support Technical Clarification Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-604, January 14, 2013, 60 DCR 1045), applicable as of January 10, 2013.

Legislative history of Law 18-230. — For Law 18-230, see notes following § 4-301.

Editor’s notes. — Section 701 of D.C. Law 18-230 provided: “Sec. 701. Applicability. Title III of this act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.”

The Budget Director of the Council of the District of Columbia has determined, as of February 15, 2012, that the fiscal effect of Title III of D.C. Law 18-230 has not been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by title III of D.C. Law 18-230, are not in effect.

The Budget Director of the Council of the District of Columbia has determined, as of October 10, 2012, that the fiscal effect of Title III of D.C. Law 18-230 has been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by title III of D.C. Law 18-230, are in effect. Section 110 of emergency D.C. Act 19-482 repealed section 701 of D.C. Law 18-230.

PART C-i.

PUBLIC DISCLOSURE OF FINDINGS AND INFORMATION IN CASES
OF CHILD FATALITY OR NEAR FATALITY.

§ 4-1303.35. Freedom of Information Act requests.

Emergency legislation.

For temporary addition of Part Cii, concerning statements of rights and responsibilities for youth in foster care, see § 2 of the Foster Youth

Statements of Rights and Responsibilities Emergency Amendment Act of 2012 (D.C. Act 19-622, January 22, 2013, 60 DCR 1338).

PART F.

RULES.

§ 4-1306.01. Rules.

(a) The Mayor may, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to implement the provisions of this subchapter within 90 days of June 27, 2000. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

(b) All existing rules and regulations promulgated pursuant to this subchapter shall remain in effect until the rules promulgated pursuant to subsection (a) of this section become effective.

(c) Notwithstanding subsection (a) of this section, the Mayor shall have full authority to enforce the provisions of subchapter.

(d)(1) Within 180 days of June 29, 2011, the Mayor, pursuant to subchapter I of Chapter 5 of Title 2, shall issue rules to implement the Families Together Amendment Act of 2010, effective September 24, 2010 (D.C. Law 18-228; 57 DCR 6926).

(2) The proposed rules shall be submitted to the Council for a 30 day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within the 30 day review period, the proposed rules shall be deemed approved.

(Sept. 23, 1977, D.C. Law 2-22, title VI, § 601, formerly § 341, as added June 27, 2000, D.C. Law 13-136, § 201(g), 47 DCR 2850; renumbered Mar. 2, 2007, D.C. Law 16-191, § 22(b), 53 DCR 6794; Sept. 24, 2010, D.C. Law 18-228, § 2(c), 57 DCR 6926; Sept. 14, 2011, D.C. Law 19-21, § 5052(b), 58 DCR 6226.)

Section references. — This section is referenced in § 4-1301.04.

Effect of amendments.

D.C. Law 18-228 added subsec. (d).

D.C. Law 19-21 rewrote subsec. (d)(1), which formerly read:

Temporary Repeal of Section. — Section 109 of D.C. Law 19-226 repealed D.C. Law 18-228, § 3.

Section 402(b) of D.C. Law 19-226 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary repeal of D.C. Law 18-228, § 3, see § 109 of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478).

For temporary repeal of D.C. Law 18-228, § 3, see § 109 of the Fiscal Year 2013 Budget Support Technical Clarification Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-604, January 14, 2013, 60 DCR 1045), applicable as of January 10, 2013.

Legislative history of Law 18-228. — For Law 18-228, see notes following § 4-1301.02.

Legislative history of Law 19-21. — For history of Law 19-21, see notes under § 4-204.07.

References in text. — The “Families Together amendment”, referred to in subsection (d)(1) of this section, is D.C. Law 18-228.

Editor’s notes. — Section 3 of D.C. Law 18-228 provided: “Sec. 3. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.”

The Budget Director of the Council of the District of Columbia has determined, as of February 15, 2012, that the fiscal effect of D.C. Law 18-228 has not been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by D.C. Law 18-228, are not in effect.

The Budget Director of the Council of the District of Columbia has determined, as of October 10, 2012, that the fiscal effect of Title III of D.C. Law 18-228 has been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by D.C. Law 18-228, are in effect. Section 109 of emergency D.C. Act 19-482 repealed section 3 of D.C. Law 18-228.

Subchapter II. Reports of Neglected Children.

§ 4-1321.02. Persons required to make reports; procedure.

(a) Notwithstanding § 14-307, any person specified in subsection (b) of this section who knows or has reasonable cause to suspect that a child known to him or her in his or her professional or official capacity has been or is in immediate danger of being a mentally or physically abused or neglected child, as defined in § 16-2301(9), shall immediately report or have a report made of such knowledge or suspicion to either the Metropolitan Police Department of the District of Columbia or the Child and Family Services Agency.

(a-1) [Not funded]

(a-2) [Not funded]

(b) Persons required to report such abuse or neglect shall include Child and Family Services Agency employees, agents, and contractors, and every physician, psychologist, medical examiner, dentist, chiropractor, registered nurse, licensed practical nurse, person involved in the care and treatment of patients, law-enforcement officer, humane officer of any agency charged with the enforcement of animal cruelty laws, school official, teacher, athletic coach, Department of Parks and Recreation employee, public housing resident manager, social service worker, day care worker, human trafficking counselor as defined in § 14-311(2), domestic violence counselor as defined in § 14-310(a)(2), and mental health professional as defined in § 7-1201.01(11). Such persons are not required to report when employed by a lawyer who is providing representation in a criminal, civil, including family law, or delinquency matter and the basis for the suspicion arises solely in the course of that representation. Whenever a person is required to report in his or her capacity as a member of the staff of a hospital, school, social agency or similar institution, he

or she shall immediately notify the person in charge of the institution or his or her designated agent who shall then be required to make the report. The fact that such a notification has been made does not relieve the person who was originally required to report from his or her duty under subsection (a) of this section of having a report made promptly to the Metropolitan Police Department of the District of Columbia or the Child and Family Services Agency.

(c) In addition to those persons who are required to make a report, any other person may make a report to the Metropolitan Police Department of the District of Columbia or the Child and Family Services Agency.

(d) In addition to the requirements in subsections (a) and (b) of this section, any health professional licensed pursuant to Chapter 12 of Title 3, or a law enforcement officer, [or] humane officer of any agency charged with the enforcement of animal cruelty laws, except an undercover officer whose identity or investigation might be jeopardized, shall report immediately, in writing, to the Child and Family Services Agency, that the law enforcement officer or health professional has reasonable cause to believe that a child is abused as a result of inadequate care, control, or subsistence in the home environment due to exposure to drug-related activity. The report shall be in accordance with the provisions of § 4-1321.03.

(e) Notwithstanding § 14-307, any person specified in subsection (b) of this section who knows or has reasonable cause to suspect that a child known to him or her in his or her professional or official capacity has been, or is in immediate danger of being, the victim of “sexual abuse” or “attempted sexual abuse” prohibited by Chapter 30 of Title 22 [§ 22-3001 et seq.]; or that the child was assisted, supported, caused, encouraged, commanded, enabled, induced, facilitated, or permitted to become a prostitute, as that term is defined in § 22-2701.01(3); or that the child has an injury caused by a bullet; or that the child has an injury caused by a knife or other sharp object which has been caused by other than accidental means, shall immediately report or have a report made of such knowledge, information, or suspicion to the Metropolitan Police Department or the Child and Family Services Agency.

(f) A health professional licensed pursuant to Chapter 12 of Title 3 [§ 3-1201.01 et seq.], who in his or her own professional or official capacity knows that a child under 12 months of age is diagnosed as having a Fetal Alcohol Spectrum Disorder, shall immediately report or have a report made to the Child and Family Services Agency.

(Nov. 6, 1966, 80 Stat. 1354, Pub. L. 89-775, § 2; Sept. 23, 1977, D.C. Law 2-22, title I, § 103(c), 24 DCR 3341; Mar. 15, 1990, D.C. Law 8-87, § 2(a), 37 DCR 50; Mar. 2, 2007, D.C. Law 16-204, § 2, 53 DCR 9059; Apr. 24, 2007, D.C. Law 16-306, § 203(a), 53 DCR 8610; July 18, 2008, D.C. Law 17-198, § 3, 55 DCR 6283; Dec. 5, 2008, D.C. Law 17-281, § 102, 55 DCR 9186; Mar. 25, 2009, D.C. Law 17-353, §§ 173(a), 193, 240(b), 56 DCR 1117; Oct. 23, 2010, D.C. Law 18-239, § 202, 57 DCR 5405; Oct. 26, 2010, D.C. Law 18-242, § 2, 57 DCR 7555; July 13, 2012, D.C. Law 19-164, § 3, 59 DCR 6185.)

Section references. — This section is referenced in § 3-1205.14, § 4-1301.06b, § 4-1451.06, § 16-1056, and § 38-203.

Legislative history of Law 19-164. — For history of Law 19-164 see notes under § 4-1301.09a.

Effect of amendments.

D.C. Law 19-164 added subsec. (f).

Subchapter III-A. Integrated Funding and Services for At-Risk Children, Youth, and Families.

§ 4-1345.01. Definitions.

For the purposes of this subchapter, the term:

(1) “At-risk child or youth” means an individual who is less than 18 years of age and exhibits, is characterized by, or is subject to one or more of the following conditions:

- (A) Abuse or neglect, as described in § 16-2301(9) and (23);
- (B) Developmental disability, as that term is defined in § 21-1201(3);
- (C) Delinquency, as described in § 16-2301(6);
- (D) Homelessness, as described in § 4-751.01(18);
- (D-i) Intellectual disability, as that term is defined in D.C. Official Code

§ 21-1201(4A).

- (E) Mental illness, as that term is defined in § 21-501(5);

- (F) Repealed.

- (G) Poverty, as defined by the income eligibility guidelines set by the United States Department of Agriculture for the school lunch and school breakfast programs;

- (H) Probation, as that term is defined in § 16-2301(18);

- (I) School dropout, defined as not attending school without graduating from high school or completing an approved education program;

- (J) Substance abuse, as that term is defined in § 7-3002(12);

- (K) Teenage pregnancy; or

- (L) Truancy, defined as 10 or more unexcused absences during a school semester.

(2) “At-risk family” means a family that exhibits, is characterized by, or is subject to one or more of the following conditions:

- (A) Abuse or neglect, as described in § 16-2301(9) and (23);

- (B) Homelessness, as described in § 4-751.01(18);

- (C) Incarceration of a parent;

- (D) Intrafamily violence, as described in § 16-1001(7) [now (9)];

- (E) Mental illness, as that term is defined in § 21-501(5), of a parent or caregiver;

- (F) Poverty, as defined by the income eligibility guidelines set by the United States Department of Agriculture for the school lunch and school breakfast programs;

- (G) Substance abuse, as that term is defined in § 7-3002(12), of a parent or caregiver; or

- (H) Teenage parenthood.

(3) “Child” means an individual who is less than 18 years of age.

(4) “Domestic partnership” shall have the same meaning as provided in § 32-701(4).

(5) “Family” means an adult or adults who share a residence with at least one child and are related by blood, legal custody, marriage, or domestic partnership.

(6) “Fund” means the Integrated Services Fund for At-Risk Children, Youth, and Families.

(7) “Local funding” means funding appropriated from tax and non-tax revenue raised by the District of Columbia government and not earmarked for a particular purpose.

(8) “Youth” means an individual who is at least 13 years of age and less than 18 years of age.

(Mar. 2, 2007, D.C. Law 16-192, § 5202, 53 DCR 6899; Mar. 25, 2009, D.C. Law 17-368, § 4(c), 56 DCR 1338; Sept. 26, 2012, D.C. Law 19-169, § 10, 59 DCR 5567.)

Section references. — This section is referenced in § 2-1594.

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 added (1)(D-i); and repealed (1)(F), which formerly read: “Mental retardation, as that term is defined in § 21-1201(7).”

Legislative history of Law 19-169. — Law 19-169, the “People First Respectful Language Modernization Amendment Act of 2012,” was introduced in Council and assigned Bill No.

19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor’s notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

Subchapter V. Child Fatality Review Committee.

§ 4-1371.02. Definitions.

For the purposes of this subchapter, the term:

(1) “Child” means an individual who is 18 years of age or younger, or up to 21 years of age if the child is a committed ward of the child welfare, intellectual and developmental disabilities, or juvenile systems of the District of Columbia.

(2) “Committee” means the Child Fatality Review Committee.

(Oct. 3, 2001, D.C. Law 14-28, § 4602, 48 DCR 6981; Sept. 26, 2012, D.C. Law 19-169, § 11(a), 59 DCR 5567.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted “intellectual” for “mental retardation” in (1).

Legislative history of Law 19-169. — Law 19-169, the “People First Respectful Language Modernization Amendment Act of 2012,” was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17,

2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor’s notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 4-1371.05. Criteria for case review.

(a) The Committee shall be responsible for reviewing the deaths of children who were residents of the District of Columbia and of such children who, or whose families, at the time of death:

(1) Or at any point during the 2 years prior to the child's death, were known to the juvenile justice or intellectual disability or developmental disabilities systems of the District of Columbia; and

(2) Or at any point during the 4 years prior to the child's death, were known to the child welfare system of the District of Columbia.

(b) The Committee may review the deaths of nonresidents if the death is determined to be accidental or unexpected and occurs within the District.

(c) The Committee shall establish, by regulation, the manner of review of cases, including use of the following approaches:

(1) Multidisciplinary review of individual fatalities;

(2) Multidisciplinary review of clusters of fatalities identified by special category or characteristic;

(3) Statistical reviews of fatalities; or

(4) Any combination of such approaches.

(d) The Committee shall establish 2 review teams to conduct its review of child fatalities. The Infant Mortality Review Team shall review the deaths of children under the age of one year and the Child Fatality Review Team shall review the deaths of children over the age of one year. Each team may include designated public officials with responsibilities for child and juvenile welfare from each of the agencies and entities listed in § 4-1371.04.

(e) Full multidisciplinary/multi-agency reviews shall be conducted, at a minimum, on the following fatalities:

(1) Those children known to the juvenile justice system;

(2) Those children who are known to the intellectual or developmental disabilities systems;

(3) Those children for which there is or has been a report of child abuse or neglect concerning the child's family;

(4) Those children who were under the jurisdiction of the Superior Court of the District of Columbia (including protective service, foster care, and adoption cases);

(5) Those children who, for some other reason, were wards of the District; and

(6) Medical Examiner Office cases.

(Oct. 3, 2001, D.C. Law 14-28, § 4605, 48 DCR 6981; Apr. 12, 2005, D.C. Law 15-341, § 4, 52 DCR 2315; Sept. 26, 2012, D.C. Law 19-169, § 11(b), 59 DCR 5567.)

Section references. — This section is referenced in § 4-1371.09.

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "intellectual disability" for "mental retardation" in (a)(1); and substituted "intellec-

tual or developmental disabilities systems" for "mental retardation/developmental disabilities system" in (e)(2).

Legislative history of Law 19-169. — See note to § 4-1371.02.

Editor's notes. — Section 35 of D.C. Law

19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 4-1371.06. Access to information.

(a) Notwithstanding any other provision of law, immediately upon the request of the Committee and as necessary to carry out the Committee's purpose and duties, the Committee shall be provided, without cost and without authorization of the persons to whom the information or records relate, access to:

(1) All information and records of any District of Columbia agency, or their contractors, including, but not limited to, birth and death certificates, law enforcement investigation data, unexpurgated juvenile and adult arrest records, intellectual and developmental disabilities records, medical examiner investigation data and autopsy reports, parole and probation information and records, school records, and information records of social services, housing, and health agencies that provided services to the child, the child's family, or an alleged perpetrator of abuse which led to the death of the child.

(2) All information and records (including information on prenatal care) of any private health-care providers located in the District of Columbia, including providers of mental health services who provided services to the deceased child, the deceased child's family, or the alleged perpetrator of abuse which led to the death of the child.

(3) All information and records of any private child welfare agency, educational facility or institution, or child care provider doing business in the District of Columbia who provided services to the deceased child, the deceased child's immediate family, or the alleged perpetrator of abuse or neglect which led to the death of the child.

(4) Information made confidential by §§ 4-1302.03, 4-1303.06, 7-219, 7-1203.02, 7-1305.12, 16-2331, 16-2332, 16-2333, 16-2335, and 31-3426.

(b) The Committee shall have the authority to seek information from entities and agencies outside the District of Columbia by any legal means.

(c) Notwithstanding subsection (a)(1) of this section, information and records concerning a current law enforcement investigation may be withheld, at the discretion of the investigating authority, if disclosure of the information would compromise a criminal investigation.

(d) If information or records are withheld under subsection (c) of this section, a report on the status of the investigation shall be submitted to the Committee every 3 months until the earliest of the following events occurs:

(1) The investigation is concluded;

(2) The investigating authority determines that providing the information will no longer compromise the investigation; or

(3) The information or records are provided to the Committee.

(e) All records and information obtained by the Committee pursuant to subsections (a) and (b) of this section pertaining to the deceased child or any other individual shall be destroyed following the preparation of the final Committee report. All additional information concerning a review, except

statistical data, shall be destroyed by the Committee one year after publication of the Committee's annual report.

(Oct. 3, 2001, D.C. Law 14-28, § 4606, 48 DCR 6981; Sept. 26, 2012, D.C. Law 19-169, § 11(c), 59 DCR 5567.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted “intellectual” for “mental retardation” in (a)(1).

Legislative history of Law 19-169. — See note to § 4-1371.02.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 4-1371.12. Persons required to make reports; procedure.

(a) Notwithstanding, but in addition to, the provisions of any law, including § 14-307 and Chapter 12 of Title 7, any person or official specified in subsection (b) of this section who has knowledge of the death of a child who died in the District of Columbia, or a ward of the District of Columbia who died outside the District of Columbia, shall as soon as practicable but in any event within 5 business days report the death or cause to have a report of the death made to the Registrar of Vital Records.

(b) Persons required to report child deaths pursuant to subsection (a) of this section shall include every physician, psychologist, medical examiner, dentist, chiropractor, qualified developmental disability professional, registered nurse, licensed practical nurse, person involved in the care and treatment of patients, health professional licensed pursuant to Chapter 12 of Title 3, law-enforcement officer, school official, teacher, social service worker, day care worker, mental health professional, funeral director, undertaker, and embalmer. The Mayor shall issue rules and procedures governing the nature and contents of such reports.

(c) Any other person may report a child death to the Registrar of Vital Records.

(d) The Registrar of Vital Records shall accept the report of a death of a child and shall notify the Committee of the death within 5 business days of receiving the report.

(e) Nothing in this section shall affect other reporting requirements under District law.

(Oct. 3, 2001, D.C. Law 14-28, § 4612, 48 DCR 6981; Sept. 26, 2012, D.C. Law 19-169, § 11(d), 59 DCR 5567.)

Section references. — This section is referenced in § 4-1371.14 and § 7-1203.02.

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted “developmental disability” for “mental retardation” in the first sentence of (b).

Legislative history of Law 19-169. — See note to § 4-1371.02.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

CHAPTER 14. PLACEMENT OF CHILDREN IN FAMILY HOMES.

Subchapter I. General

sation for services; inability to pay adoption costs.

Sec.

4-1410. Authority to charge or receive compen-

Subchapter I. General.

§ 4-1410. Authority to charge or receive compensation for services; inability to pay adoption costs.

(a)(1) Except as provided in paragraph (2) of this subsection, neither the Mayor nor a child-placing agency authorized to perform services in connection with placement of a child in a family home for adoption may make or receive any charge or compensation for these services.

(2) A child-placing agency may charge an adoptive parent a reasonable fee if the child-placing agency is operating in the District of Columbia exclusively for religious purposes or as a nonprofit organization, pursuant to section 501(c) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)), and no part of its net earnings inure to the benefit of any private shareholder or individual.

(b)(1) A child-placing agency providing domestic or international adoption services that is authorized to charge a fee pursuant to subsection (a) of this section shall develop a sliding-fee scale based on the per capita income of the applicant and provide each applicant with:

- (A) Its fee and refund policy;
- (B) An estimate of the agency's maximum fee for specific services;
- (C) Information regarding available public and private subsidies;
- (D) Its sliding income fee scale; and
- (E) A complete list of the services that it will provide at each stage of the adoption process.

(2) If a child-placing agency that charges a fee fails to implement and to maintain a sliding-fee scale as required by this subchapter, or rules issued pursuant to this subchapter, the failure shall be grounds for suspension or revocation of its license.

(c) Except for a reasonable, nonrefundable administrative fee, a child-placing agency shall not retain the fee paid by an adoptive parent unless the child-placing agency has provided the service.

(d) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], shall issue rules to implement the provisions of this section, including the process for suspension and revocation of the license required to maintain a child-placing agency.

(Apr. 22, 1944, ch. 174, § 12; June 8, 1954, 68 Stat. 248, ch. 273, § 6; Apr. 23, 1980, D.C. Law 3-59, § 2(a), 27 DCR 983; Sept. 24, 2010, D.C. Law 18-230, § 201(e), 57 DCR 6951; Sept. 26, 2012, D.C. Law 19-171, § 34, 59 DCR 6190.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 validated the paragraph designations in (b)(1).

Legislative history of Law 19-171. — Law 19-171, the “Technical Amendments Act of 2012,” was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first

and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

CHAPTER 17. ACCESS TO JUSTICE INITIATIVE PROGRAM.

Subchapter I. General Provisions.

§ 4-1701.01. Definitions.

Emergency legislation. — For temporary amendment of (9), see § 504(a) of the Omnibus Public Safety and Justice Amendment Act of

2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

§ 4-1704.03. LRAP; participation eligibility.

Section references. — This section is referenced in § 4-1704.05 and § 4-1704.06.

Emergency legislation. — For temporary amendment of (a)(4), see § 504(b) of the Omni-

bus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

TITLE 5. POLICE, FIREFIGHTERS, MEDICAL EXAMINER, AND FORENSIC SCIENCES.

- Chapter
- 1. Metropolitan Police.
 - 4. Fire and Emergency Services Department.
 - 5. Salaries.
 - 7. Police and Firefighters Retirement and Disability.
 - 14. Chief Medical Examiner.

CHAPTER 1. METROPOLITAN POLICE.

<i>Subchapter III. Personnel</i>	<i>Subchapter VII-A. Vehicle Insurance Enforcement</i>
Sec. 5-105.01. Appointments; assignments; promotions; applicable civil service provisions; vacancies.	Sec. 5-114.01. Definitions.
<i>Subchapter VII. Records</i>	<i>Subchapter X. Property</i>
Part A	5-119.10. Sale at public auction; motor vehicle with lien of record; disposition of proceeds from sale.
General Provisions	<i>Subchapter XVI. Performing Police Band</i>
5-113.06. Records open to public inspection.	5-131.03. Retirement of Director — Conditions; annuities.

Subchapter I. Police Districts; Police Services Area.

§ 5-101.03. General duties of Mayor.

LAW REVIEWS AND JOURNAL COMMENTARIES

“The Unnecessary Detention of Children in the District of Columbia—Pre-initial hearing detention: Are the Police Department and So-

cial Services intake following the law?.” The District of Columbia Law Review 193 (1995).

Subchapter III. Personnel.

§ 5-105.01. Appointments; assignments; promotions; applicable civil service provisions; vacancies.

(a) The Mayor of said District shall appoint to office, assign to such duty or duties as he may prescribe, and promote all officers and members of said Metropolitan Police force; provided, that all officers, members, and civilian employees of the force except the Chief of Police, the Assistant and Deputy Chiefs of Police, and the inspectors, shall be appointed and promoted in accordance with the provisions of §§ 1101— 1103, 1105, 1301— 1303, 1307, 1308, 2102, 2951, 3302— 3306, 3318, 3319, 3321, 3361, 7152, 7321, 7322, and 7352 of Title 5, United States Code, and the rules and regulations made in pursuance thereof, in the same manner as members of the classified civil

§ 5-105.01 POLICE, FIREFIGHTERS, MEDICAL EXAMINER, AND FORENSICS

service of the United States; provided further, that the Assistant and Deputy Chiefs of Police and inspectors shall be selected from among the captains of the force and shall be returned to the rank of captain when the Mayor so determines: Provided further, that privates of class 1, if found efficient, shall serve 1 year on probation, privates of class 2 shall serve 2 years subsequent to service in class 1, and privates of class 3 shall include all those privates who have served efficiently 3 or more years. In order that the full complement of the Metropolitan Police force may at all times be maintained, as authorized by law, the Mayor of the District of Columbia is authorized, when vacancies occur in classes 2 and 3 of said Metropolitan Police force, which cannot be filled by promotion, to appoint privates in class 1 equal in number to the positions vacated in said classes 2 and 3; and the respective salaries specifically provided for such vacant positions may be reduced to pay the salaries of the privates so appointed to class 1.

(a-1)(1) The Mayor shall appoint the Chief of Police, with the advice and consent of the Council, pursuant to § 1-523.01(a).

(2) The Chief of Police may be selected for appointment from among the ranks of officers and members of the Metropolitan Police Department, or from outside the department.

(3) A person selected for appointment as Chief of Police from outside the department shall be paid from the DX Schedule for subordinate agency head positions pursuant to § 1-610.52 and, unless otherwise provided by law, shall be eligible to receive retirement and other benefits as prescribed in subchapter X-A of Chapter 6 of Title 1 [§ 1-610.51 et seq.].

(4) A person selected for appointment as Chief of Police from among the ranks of officers and members of the department shall be paid from the DX Schedule for subordinate agency heads pursuant to § 1-610.52 and, unless otherwise provided by law, shall be subject to the retirement provisions for officers and members of the Metropolitan Police Department.

(b)(1) The Chief of Police shall recommend to the Director of Personnel criteria for Career Service promotions and Excepted Service appointments to Inspector, Commander, and Assistant Chief of Police that address the areas of education, experience, physical fitness, and psychological fitness. The recommended criteria shall be the same for Career Service promotions and Excepted Service appointments to these positions. When establishing the criteria, the Chief of Police shall review national standards, such as the Commission on Accreditation for Law Enforcement Agencies.

(2) All candidates for the positions of Inspector, Commander, and Assistant Chief of Police shall be of good standing with no disciplinary action pending or administered resulting in more than a 14-day suspension or termination within the past 3 years.

(c) Effective April 21, 2003, Charles H. Ramsey, Chief of Police, shall serve in the capacity of Chief of Police for a term of 5 years, except that the Mayor may earlier terminate Chief Ramsey with or without cause.

(d) Effective January 1, 2012, Cathy L. Lanier, Chief of Police, whose appointment was extended by the Mayor on January 2, 2011 (Mayor's Order 2011-3), shall serve in the capacity of Chief of Police for a term of 5 years,

except that the Mayor may earlier terminate Chief Lanier with or without cause.

(Feb. 28, 1901, 31 Stat. 819, ch. 623, § 1; June 8, 1906, 34 Stat. 221, ch. 3056; May 26, 1908, 35 Stat. 296, ch. 198; Dec. 5, 1919, 41 Stat. 363, ch. 1, § 1; Sept. 30, 2004, D.C. Law 15-194, § 102, 51 DCR 9406; Mar. 2, 2007, D.C. Law 16-199, § 3, 53 DCR 8832; May 13, 2008, D.C. Law 17-154, § 3, 55 DCR 3678; Dec. 21, 2012, D.C. Law 19-205, § 2, 59 DCR 12472.)

Section references. — This section is referenced in § 1-610.58 and § 1-632.03.

Effect of amendments.

The 2012 amendment by D.C. Law 19-205 added (d).

Legislative history of Law 19-205. — Law 19-205, the “Retention Incentives for Chief of Police Cathy L. Lanier Amendment Act of

2012,” was introduced in Council and assigned Bill No. 19-778. The Bill was adopted on first and second readings on July 10, 2012, and Sept. 19, 2012, respectively. Signed by the Mayor on Oct. 10, 2012, it was assigned Act No. 19-480 and transmitted to Congress for its review. D.C. Law 19-205 became effective on Dec. 21, 2012.

Subchapter IV. Metropolitan Police Department Application, Appointment, and Training Requirements.

§ 5-107.04. Duties of the Board; standards for applicants; continuing education program.

Emergency legislation. — For temporary amendment of section, see § 505 of the Omnibus Criminal Code Amendments Emergency

Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

Subchapter VII. Records.

PART A.

GENERAL PROVISIONS.

§ 5-113.06. Records open to public inspection.

(a) Except as provided in subsection (c) of this section, the records to be kept by paragraphs (1), (2), and (4) of § 5-113.01 shall be open to public inspection when not in actual use, and this requirement shall be enforceable by mandatory injunction issued by the Superior Court of the District of Columbia on the application of any person.

(b) The name, address, date of birth, occupation, and photograph of any person convicted of a violation of Chapter 27 of Title 22, shall be made available to the public upon written request, in exchange for a reasonable fee established by the Mayor or his or her designee.

(c) Repealed.

(R.S., D.C., § 389; June 29, 1953, 67 Stat. 99, ch. 159, title III, § 301(b); Aug. 20, 1954, 68 Stat. 755, ch. 778, § 2; July 29, 1970, 84 Stat. 571, Pub. L. 91-358, title I, § 155(c)(13); Oct. 25, 1972, 86 Stat. 1108, Pub. L. 92-543, § 1; May 24,

§ 5-114.01 POLICE, FIREFIGHTERS, MEDICAL EXAMINER, AND FORENSICS

1996, D.C. Law 11-130, § 2, 43 DCR 1570; July 25, 2006, D.C. Law 16-144, § 3, 53 DCR 2838; Mar. 5, 2013, D.C. Law 19-207, § 2, 59 DCR 12507.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-207 repealed (c).

Legislative history of Law 19-207. — Law 19-207, the “Driver Privacy Protection Amendment Act of 2012,” was introduced in Council and assigned Bill No. 19-671. The Bill was

adopted on first and second readings on June 26, 2012, and Oct. 2, 2012, respectively. Signed by the Mayor on Oct. 23, 2012, it was assigned Act No. 19-487 and transmitted to Congress for its review. D.C. Law 19-207 became effective on Mar. 5, 2013.

Subchapter VII-A. Vehicle Insurance Enforcement.

§ 5-114.01. Definitions.

For the purposes of this subchapter, the term:

(1) “Accident” means an untoward and unforeseen occurrence out of the maintenance or use of:

(A) A motor vehicle;

(B) A vehicle operated or designed for operation upon a highway by power other than muscular power with respect only to any pedestrian or any occupant of that vehicle other than the owner or operator of that vehicle; or

(C) Any other vehicle covered by the insurance coverage required by § 31-2406.

(2) “Insurance Identification Card” means a current document issued by an insurer as proof of insurance for a motor vehicle that lists the name of the insurer, the policy number, the name of the insured, the period of coverage for the insurance, and the make, model, and vehicle identification number.

(3) “Insurer” means any person, company, or professional association licensed in the District of Columbia that provides motor vehicle liability protection or any self-insurer.

(4) “Law enforcement officer” means any officer of the Metropolitan Police Department, whether salaried or reserve, or of any other law enforcement agency operating in the District of Columbia with which the Metropolitan Police Department has an agreement authorizing its officers to enforce the provisions of this subchapter.

(5) “Motor vehicle” means any device propelled by an internal-combustion engine, electricity, or steam, including any non-operational vehicle that is being restored or repaired. The term “motor vehicle” does not include traction engines used exclusively for drawing vehicles in fields, road rollers, vehicles propelled only upon rails and tracks, electric personal assistive mobility devices, as defined by § 50-2201.02(12), and battery-operated wheelchairs when operated by a person with a disability at speeds not exceeding 10 miles per hour.

(6) “Operator” means a person who drives or is in actual physical control of a motor vehicle or who is exercising control over or steering a motor vehicle being pushed or towed by a motor vehicle.

(7) “Owner” means any person, corporation, firm, agency, association, organization, or federal, state, or local government agency or other authority or

other entity having the property or title to a vehicle or bicycle used or operated in the District; any registrant of a vehicle used or operated in the District; or any person, corporation, firm, agency, association, organization, or federal, state, or local government agency or authority or other entity in business or renting or leasing vehicles or bicycles to be used or operated in the District.

(8) “Proof of insurance” means a valid Insurance Identification Card for a District of Columbia resident or its equivalent for the resident of another state. Other documentation from an insurance company that constitutes reasonable proof of valid insurance being in effect shall be adequate evidence of proof of insurance.

(9) “Self-insurer” means any person having received a certificate of self-insurance issued by the Mayor pursuant to § 50-1301.79.

(June 8, 2006, D.C. Law 16-117, § 101, 53 DCR 2548; Sept. 26, 2012, D.C. Law 19-169, § 12, 59 DCR 5567.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted “person with a disability” for “handicapped person” in the second sentence of (5).

Legislative history of Law 19-169. — Law 19-169, the “People First Respectful Language Modernization Amendment Act of 2012,” was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and sec-

ond readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor’s notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

Subchapter X. Property.

§ 5-119.10. Sale at public auction; motor vehicle with lien of record; disposition of proceeds from sale.

(a) With respect to all property (including money), except perishable property, animals, firearms and property of persons with mental illness, not otherwise disposed of in accordance with § 5-119.09, that shall remain in the custody of the Property Clerk for not less than 90 days without being claimed and repossessed, the Property Clerk shall:

(1) Publish or cause to be published in a newspaper of general circulation in the District, once a week for 2 consecutive weeks:

(A) Notice of the location where a full description of the property can be reviewed; and

(B) Notice that if such property is not claimed by the rightful owner within 45 days from the date of 1st publication, title to the property shall revert to the finder of lost property after deduction for the expenses of custody and publication, or to the District of Columbia in all other cases; and

(2) Post or cause to be posted in the Metropolitan Police Department headquarters, where public notices are commonly or usually posted, a description of the property, and a copy of the notice published in the newspaper of general circulation in the District, and shall make a record of the date when such publication and the posting of the notices are made; and

(b) If neither the rightful owner nor the finder appear to claim the lost

§ 5-119.10 POLICE, FIREFIGHTERS, MEDICAL EXAMINER, AND FORENSICS

property, title to such property shall transfer to the District government and the property may be retained by the Mayor for official government use or may be sold at public auction at such place and time as the Property Clerk may direct and in such a manner as to expose to the inspection of bidders all property so offered for sale. The Property Clerk needs not offer any property for sale if, in the Property Clerk's opinion, the probable cost of sale exceeds the value of the property.

(c) The purchaser at any sale conducted by the Property Clerk pursuant to this section shall receive title to the property purchased, free from all claims of the rightful owner or the finder of the property and all persons claiming through and under the rightful owner or the finder. The Property Clerk shall execute all documents necessary to complete the transfer of title.

(d) All proceeds from any sale under this section shall be deposited in the General Fund of the District government.

(e) Repealed.

(f)(1) The Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue proposed rules to implement the provisions of this section.

(2) The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved. Nothing in this section shall affect any requirements imposed upon the Mayor by subchapter I of Chapter 5 of Title 2.

(R.S., D.C., § 417; Sept. 1, 1916, 39 Stat. 718, ch. 433, § 12; Mar. 3, 1936, 49 Stat. 1158, ch. 121, § 2; Sept. 25, 1962, 76 Stat. 591, Pub. L. 87-691, § 4; Mar. 5, 1981, D.C. Law 3-160, § 202, 27 DCR 5150; Sept. 29, 1988, D.C. Law 7-164, § 2, 35 DCR 5739; Sept. 9, 1989, D.C. Law 8-24, § 6(c)-(e), 36 DCR 4575; Oct. 28, 2003, D.C. Law 15-35, § 13(a), 50 DCR 6579; Apr. 24, 2007, D.C. Law 16-305, § 16, 53 DCR 6198; Sept. 20, 2012, D.C. Law 19-168, § 3002, 59 DCR 8025.)

Section references. — This section is referenced in § 5-119.06 and § 5-119.09.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 rewrote (a)(1)(A), which formerly read: "A description of the property; and"; added "a description of the property, and" in (a)(2); added (a)(3); and made a related change.

Legislative history of Law 19-168. — Law

19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

*Subchapter XIV. General Powers and Duties.***§ 5-127.01. Conduct of force; power to fine, suspend and dismiss; written charges; opportunity to be heard; removal without trial; amendment of charges.**

Section references. — This section is referenced in § 1-632.03.

LAW REVIEWS AND JOURNAL COMMENTARIES

“The Unnecessary Detention of Children in the District of Columbia—Pre-initial hearing detention: Are the Police Department and Social Services intake following the law?” 3 The District of Columbia Law Review 193 (1995).

*Subchapter XVI. Performing Police Band.***§ 5-131.03. Retirement of Director — Conditions; annuities.**

(a) Notwithstanding the limitations of existing law, the person who is the Director of the Metropolitan Police Force band may elect to retire after having served 10 or more years in such capacity and having attained the age of 70 years. Upon such retirement, whether for age and service or for disability, said Director and his surviving spouse or domestic partner, shall be entitled to receive annuities in amounts equivalent to, and under the conditions applicable to, the annuities which a captain in the Metropolitan Police force and his surviving spouse or domestic partner, may be entitled to receive after such captain has retired from said force for substantially the same reason as that for which said Director may retire, whether for age and service or for disability, as the case may be. If the said Director shall apply for retirement for disability, he shall not be eligible to retire under § 5-710, but he shall be eligible to apply for retirement under § 5-709, in like manner as if the said Director were an officer or member of the Metropolitan Police force. The annuities hereby authorized shall be in addition to any pension or retirement compensation which said Director may be entitled to receive from any other source, whether from the United States or otherwise. The annuities payable to said Director and his surviving spouse or domestic partner pursuant to this subchapter shall be payable from District of Columbia appropriations, but shall not be considered as annuities payable to an officer or member of the Metropolitan Police force or to the surviving spouse or domestic partner, of such officer or member. Appropriations for the operations of the Metropolitan Police Department are made available for this purpose. Annuities authorized by this section shall be computed on the basis of compensated service rendered after July 11, 1947.

(b) For the purposes of this section, the term “domestic partner” shall have the same meaning as provided in § 32-701(3).

(July 11, 1947, ch. 226, § 3; Sept. 22, 1959, 73 Stat. 640, Pub. L. 86-356; Aug.

29, 1972, 86 Stat. 642, Pub. L. 92-410, title II, § 202(a); Sept. 12, 2008, D.C. Law 17-231, § 14, 55 DCR 6758; Sept. 26, 2012, D.C. Law 19-171, § 37(a), 59 DCR 6190.)

Section references. — This section is referenced in § 1-632.03.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted “spouse or domestic partner” for “spouse, domestic partner” throughout (a).

Legislative history of Law 19-171. — Law 19-171, the “Technical Amendments Act of

2012,” was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

CHAPTER 3. FEDERAL LAW ENFORCEMENT OFFICER COOPERATION WITH METROPOLITAN POLICE DEPARTMENT.

§ 5-301. Powers and duties of federal law enforcement officers when making arrests for nonfederal offenses.

Section references. — This section is referenced in § 5-302.

Emergency legislation. — For temporary amendment of section, see § 201 of the Omni-

bus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

CHAPTER 3A. FIRST AMENDMENT RIGHTS AND POLICE STANDARDS.

Subchapter I. First Amendment Assemblies.

§ 5-331.01. Short title.

LAW REVIEWS AND JOURNAL COMMENTARIES

The Policing of Demonstrations in the Nation’s Capital: Legislative and Judicial Corrections of a Police Department’s Misconception of

Mission and the Failure of Leadership. Ralph Temple, 8 U.D.C. L. Rev. 3 (2004).

§ 5-331.03. Policy on First Amendment assemblies.

Section references. — This section is referenced in § 5-331.04 and § 5-331.07.

LAW REVIEWS AND JOURNAL COMMENTARIES

The Policing of Demonstrations in the Nation’s Capital: Legislative and Judicial Corrections of a Police Department’s Misconception of

Mission and the Failure of Leadership. Ralph Temple, 8 U.D.C. L. Rev. 3 (2004).

§ 5-331.04. Reasonable time, place, and manner restrictions on First Amendment assemblies.

LAW REVIEWS AND JOURNAL COMMENTARIES

The Policing of Demonstrations in the Nation's Capital: Legislative and Judicial Corrections of a Police Department's Misconception of

Mission and the Failure of Leadership. Ralph Temple, 8 U.D.C. L. Rev. 3 (2004).

§ 5-331.05. Notice and plan approval process for First Amendment assemblies — Generally.

Section references. — This section is referenced in § 37-131.03.

LAW REVIEWS AND JOURNAL COMMENTARIES

The Policing of Demonstrations in the Nation's Capital: Legislative and Judicial Corrections of a Police Department's Misconception of

Mission and the Failure of Leadership. Ralph Temple, 8 U.D.C. L. Rev. 3 (2004).

§ 5-331.06. Notice and plan approval process for First Amendment assemblies — Processing applications — Appeals — Rules.

LAW REVIEWS AND JOURNAL COMMENTARIES

The Policing of Demonstrations in the Nation's Capital: Legislative and Judicial Corrections of a Police Department's Misconception of

Mission and the Failure of Leadership. Ralph Temple, 8 U.D.C. L. Rev. 3 (2004).

§ 5-331.07. Police handling and response to First Amendment assemblies.

LAW REVIEWS AND JOURNAL COMMENTARIES

The Policing of Demonstrations in the Nation's Capital: Legislative and Judicial Corrections of a Police Department's Misconception of

Mission and the Failure of Leadership. Ralph Temple, 8 U.D.C. L. Rev. 3 (2004).

§ 5-331.10. Documentation of arrests in connection with a First Amendment assembly.

LAW REVIEWS AND JOURNAL COMMENTARIES

The Policing of Demonstrations in the Nation's Capital: Legislative and Judicial Corrections of a Police Department's Misconception of

Mission and the Failure of Leadership. Ralph Temple, 8 U.D.C. L. Rev. 3 (2004).

§ 5-331.11. Use of handcuffs, plastic cuffs, or other physical restraints on persons arrested in connection with a First Amendment assembly.

LAW REVIEWS AND JOURNAL COMMENTARIES

The Policing of Demonstrations in the Nation's Capital: Legislative and Judicial Corrections of a Police Department's Misconception of

Mission and the Failure of Leadership. Ralph Temple, 8 U.D.C. L. Rev. 3 (2004).

§ 5-331.17. Construction.

LAW REVIEWS AND JOURNAL COMMENTARIES

The Policing of Demonstrations in the Nation's Capital: Legislative and Judicial Corrections of a Police Department's Misconception of

Mission and the Failure of Leadership. Ralph Temple, 8 U.D.C. L. Rev. 3 (2004).

Subchapter III. Post-and-Forfeit Procedure.

§ 5-335.01. Enforcement of the post-and-forfeit procedure.

CASE NOTES

ANALYSIS

Due process.
Right to counsel.
Standing.

Due process.

District of Columbia statute permitting arrestee to pay and forfeit fee for arrestee's immediate release from jail without prosecution did not violate arrestee's Fifth Amendment procedural or substantive due process rights as applied, where arrestee was given the choice to pay fee or remain in jail until presented to court and he could contest charges against him, including asserting lack of probable cause, for up to 90 days after availing himself of the fee. *Fox v. District of Columbia*, 851 F.Supp.2d 20, 2012 U.S. Dist. LEXIS 44141 (2012), dismissed in part by 2013 U.S. Dist. LEXIS 20524 (D.D.C. Feb. 15, 2013).

District of Columbia statute permitting arrestee to pay and forfeit fee for arrestee's immediate release from jail without prosecution did not warrant any additional procedure, and therefore, statute's procedure did not violate arrestee's Fifth Amendment procedural due process rights on its face, where arrestee was not required to pay, if he did pay, he had 90 days to re-think decision by moving to set aside forfeiture, and government had legitimate interests in preventing overcrowding of its jails and not expending its limited resources on prosecuting petty offenses. *Fox v. District of Columbia*, 851 F.Supp.2d 20, 2012 U.S. Dist.

LEXIS 44141 (2012), dismissed in part by 2013 U.S. Dist. LEXIS 20524 (D.D.C. Feb. 15, 2013).

District of Columbia statute permitting arrestee to pay and forfeit fee for arrestee's immediate release from jail without prosecution did not violate any fundamental principle of justice, as would violate Fifth Amendment procedural due process on its face, where arrestees were offered the choice to pay the fee and be released or stay in jail, arrestees had 90 days to re-think decision to pay, and payment did not result in record of conviction. *Fox v. District of Columbia*, 851 F.Supp.2d 20, 2012 U.S. Dist. LEXIS 44141 (2012), dismissed in part by 2013 U.S. Dist. LEXIS 20524 (D.D.C. Feb. 15, 2013).

Right to counsel.

District of Columbia statute permitting arrestee to pay and forfeit fee for arrestee's immediate release from jail without prosecution did not violate his Sixth Amendment right to counsel in criminal prosecutions, where paying fee did not result in a criminal record, statute stated payment was not admission of guilt, and arrestee was permitted to consult with counsel later and move to set aside forfeiture. *Fox v. District of Columbia*, 851 F.Supp.2d 20, 2012 U.S. Dist. LEXIS 44141 (2012), dismissed in part by 2013 U.S. Dist. LEXIS 20524 (D.D.C. Feb. 15, 2013).

Standing.

Arrestee had standing to bring § 1983 claims against District of Columbia, challenging under the Fourth, Fifth, Sixth, and Eighth Amend-

ments, District law permitting him to post and forfeit collateral in return for his release from jail without prosecution; arrestee sought injunctive relief and relief on behalf of a class of persons who were subject in the past and who

will be subject to law in the future. *Fox v. District of Columbia*, 851 F.Supp.2d 20, 2012 U.S. Dist. LEXIS 44141 (2012), dismissed in part by 2013 U.S. Dist. LEXIS 20524 (D.D.C. Feb. 15, 2013).

LAW REVIEWS AND JOURNAL COMMENTARIES

The Policing of Demonstrations in the Nation's Capital: Legislative and Judicial Corrections of a Police Department's Misconception of

Mission and the Failure of Leadership. Ralph Temple, 8 U.D.C. L. Rev. 3 (2004).

Subchapter IV. Police Identification Information.

§ 5-337.01. Police identifying information.

LAW REVIEWS AND JOURNAL COMMENTARIES

The Policing of Demonstrations in the Nation's Capital: Legislative and Judicial Corrections of a Police Department's Misconception of

Mission and the Failure of Leadership. Ralph Temple, 8 U.D.C. L. Rev. 3 (2004).

CHAPTER 4. FIRE AND EMERGENCY SERVICES DEPARTMENT.

Subchapter I. General Provisions

Subchapter II. Fire and Emergency Medical Services Training

Sec.

5-401. Area of service; division of District into fire companies; approval required for major changes in manner of fire protection.

5-401.01. State safety oversight agency for DC Streetcar.

5-405. Workweek established; hours of duty; days off duty; holidays.

Part B

Education And Training Program

Sec.

5-441. Fire and Emergency Medical Services education and training program; certification of firefighters, paramedics, and emergency medical technicians.

Subchapter I. General Provisions.

§ 5-401. Area of service; division of District into fire companies; approval required for major changes in manner of fire protection.

(a) The Fire and Emergency Medical Services Department ("Department") shall provide fire prevention and fire protection within the geographical boundaries of the District of Columbia. The District shall be divided into such fire companies, and other units as the Council of the District of Columbia may from time to time direct. Major changes in the manner the Department provides fire protection and fire prevention shall be approved by resolution of the Council.

(b) The Department shall provide pre-hospital medical care and transport within the geographical boundaries of the District of Columbia. Major changes

§ 5-401.01 POLICE, FIREFIGHTERS, MEDICAL EXAMINER, AND FORENSICS

in the manner the Department provides emergency medical services shall be approved by resolution of the Council.

(c) The Department shall provide oversight to ensure the safety and security of DC Streetcar operations as provided in § 5-401.01.

(June 20, 1906, 34 Stat. 314, ch. 3443, § 1; Apr. 7, 1977, D.C. Law 1-111, § 2, 23 DCR 9384; Apr. 15, 2008, D.C. Law 17-147, § 2(a), 55 DCR 2558; Mar. 25, 2009, D.C. Law 17-353, § 232, 56 DCR 1117; Sept. 20, 2012, D.C. Law 19-168, § 6012(a), 59 DCR 8025; Sept. 26, 2012, D.C. Law 19-171, § 38, 59 DCR 6190.)

Section references. — This section is referenced in § 5-401.01, § 7-2341.03, § 7-2341.07, and § 7-2341.23.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 added (c).

The 2012 amendment by D.C. Law 19-171 made a technical amendment to D.C. Law 17-147, § 2(a)(2), that did not change the text of this section.

Legislative history of Law 19-168. — Law 19-168, the “Fiscal Year 2013 Budget Support Act of 2012,” was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012,

and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Legislative history of Law 19-171. — Law 19-171, the “Technical Amendments Act of 2012,” was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 5-401.01. State safety oversight agency for DC Streetcar.

(a) The Fire and Emergency Medical Services Department is designated as the state safety oversight agency, as required by 49 C.F.R. § 659.9, and shall require, review, approve, and monitor the safety program for the DC Streetcar, established pursuant to § 50-921.04(2)(E).

(b) The Fire Chief shall issue rules, in accordance with Federal Transit Administration requirements listed in 49 C.F.R. § 659, to implement subsection (a) of this section and § 5-401(c).

(June 20, 1906, 34 Stat. 314, ch. 3443, § 1a, as added Sept. 20, 2012, D.C. Law 19-168, § 6012(b), 59 DCR 8025.)

Section references. — This section is referenced in § 5-401.

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 added this section.

Legislative history of Law 19-168. — See note to § 5-401.

§ 5-402. Appointments and promotions covered by civil service; selection of Fire Chief and Deputy Fire Chiefs; original appointment and transfer of privates; vacancies.

Section references. — This section is referenced in § 1-632.03, § 7-2341.03, § 7-2341.07, and § 7-2341.23.

CASE NOTES

Final policy.

African-American members and officers of District of Columbia Fire and Emergency Medical Services (DCFEMS) who were seeking to hold District liable under § 1981 and § 1983 for denial of their reinstatement to Arson Investigation Unit after they were cleared of charges against them failed to demonstrate that District policy or custom caused their

injuries; neither their immediate supervisor nor Deputy Fire Chief had final policymaking authority under D.C. law, and they failed to provide evidence that District was deliberately indifferent to violations of their constitutional rights. *Hamilton v. District of Columbia*, 852 F.Supp.2d 139, 2012 U.S. Dist. LEXIS 47808 (2012).

§ 5-405. Workweek established; hours of duty; days off duty; holidays.

(a) Beginning with the 1st day of the 1st pay period which begins not less than 120 days after enactment of this amendatory subsection or which begins on or after July 1, 1962, whichever is later, the Mayor of the District of Columbia is authorized and directed to establish a workweek for officers and members of the Firefighting Division of the Fire Department of the District of Columbia which will result in an average workweek of not to exceed 48 hours during an administratively established workweek cycle which the Mayor is hereby authorized to establish from time to time.

(b) The Firefighting Division shall operate under a 2-shift system and all hours of duty of any shift shall be consecutive.

(c) The Mayor of the District of Columbia is further authorized and directed to establish a workweek for officers and members of the Fire Department, other than those in the Firefighting Division, of 40 hours, and the hours of work in such workweek shall be performed on consecutive days in such workweek: Provided, that notwithstanding the provisions of this subsection, the Mayor of the District of Columbia or his designated agent or agents may, whenever the exigencies of the Fire Department require temporary or short-term services of 1 or more officers or members, order such officer, officers, member, or members to perform such services.

(d) The days off duty to which each officer or member of the Fire Department is entitled shall be in addition to his annual leave and sick leave allowed by law. In the case of any shift of the Fire Department beginning on 1 day and extending without a break in continuity into the next day, or in the case of 2 shifts beginning on the same day, the Mayor is authorized to designate the shift which shall be the workday, and the entire shift so designated shall be considered the workday for all pay and leave purposes.

(e) If a holiday shall fall on any day off of any officer or member of the Fire Department, he shall be excused from duty on such other day as is designated by the Mayor of the District of Columbia, and if he is required to be on duty in lieu of such day off, he shall receive compensation for such duty at the rate provided by law for duty performed on a holiday. When any shift of the Fire Department begins on the day before a holiday and extends without a break in continuity into the holiday, or begins on a holiday and extends without a break in continuity into the next day, the Mayor of the District of Columbia is authorized to designate either of such shifts as the holiday workday, and the

§ 5-409.01 POLICE, FIREFIGHTERS, MEDICAL EXAMINER, AND FORENSICS

entire shift so designated shall be considered as the holiday workday for all pay and leave purposes. As used in this subsection, the word “holiday” shall have the same meaning as such word has in § 5-521.02, and as supplemented by § 6103 of Title 5, United States Code.

(f) For fiscal years 2011, 2012, and 2013, and except as provided in subsection (h) of this section, no member of the Fire and Emergency Medical Services Department, except for officers, shall work more than 204 hours in 2 consecutive pay periods.

(g) For fiscal years 2011, 2012, and 2013, and except as provided in subsection (h) of this section, no officer or member shall be permitted to earn overtime compensation for overtime work performed in a pay period after that officer or member has received sick leave in the same pay period.

(h) The restrictions in subsections (f) and (g) of this section shall not apply during pay periods 1 and 2 of calendar year 2013.

(June 19, 1948, 62 Stat. 498, ch. 530, § 2; Aug. 4, 1955, 69 Stat. 491, ch. 549, § 2; Oct. 5, 1961, 75 Stat. 830, Pub. L. 87-399, §§ 1, 2; Sept. 25, 1962, 76 Stat. 596, Pub. L. 87-697, §§ 1, 2; Oct. 21, 1965, 79 Stat. 1015, Pub. L. 89-282, § 2; Sept. 24, 2010, D.C. Law 18-223, § 3023, 57 DCR 6242; Sept. 14, 2011, D.C. Law 19-21, § 3013, 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, § 3023, 59 DCR 8025.)

Section references. — This section is referenced in § 1-632.03.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted “fiscal years 2011, 2012, and 2013,

and except as provided in subsection (h) of this section” for “fiscal years 2011 and 2012” in (f) and (g); and added (h).

Legislative history of Law 19-168. — See note to § 5-401.

§ 5-409.01. Paramedic and emergency medical technician lateral transfer to Fire and Emergency Medical Services Department.

Section references. — This section is referenced in § 5-544.01 and § 5-704.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in (a-1).

Legislative history of Law 19-171. — Law 19-171, the “Technical Amendments Act of

2012,” was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 5-417.01. Fire and arson investigation — Authority generally; authority to enter and examine; arrest and warrant powers.

Emergency legislation.

For temporary addition of D.C. Law 12-176, § 2a, concerning compliance with fire code and occupancy requirements, see § 506 of the Om-

nibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

Subchapter II. Fire and Emergency Medical Services Training.

PART B.

EDUCATION AND TRAINING PROGRAM.

§ 5-441. Fire and Emergency Medical Services education and training program; certification of firefighters, paramedics, and emergency medical technicians.

(a) The Chief of the Fire and Emergency Medical Services Department shall design an education and training program that encompasses entry-level and in-service training and addresses issues such as skills with specialized equipment acquired to address special hazards, knowledge of new construction techniques, and emergency medicine skills for target audiences, such as persons with disabilities, the elderly, and very young. The education and training program shall be based upon the department's mission and operational performance measures.

(b) The Fire Chief, in close coordination with the Medical Director, shall develop and implement a program of certification for firefighters, paramedics, and emergency medical technicians.

(c) For fiscal years 2011, 2012, and 2013, no officer or member of the Fire and Emergency Medical Services Department shall be detailed to Emergency Medical Technician classes for more than 60 days.

(Sept. 30, 2004, D.C. Law 15-194, § 202, 51 DCR 9406; Apr. 24, 2007, D.C. Law 16-305, § 17, 53 DCR 6198; Apr. 15, 2008, D.C. Law 17-147, § 5, 55 DCR 2558; Sept. 24, 2010, D.C. Law 18-223, § 3024, 57 DCR 6242; Sept. 14, 2011, D.C. Law 19-21, § 3014, 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, § 3024, 59 DCR 8025.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted "fiscal years 2011, 2012, and 2013" for "fiscal years 2011 and 2012" in (c).

Legislative history of Law 19-168. — See note to § 5-401.

CHAPTER 5. SALARIES.

Subchapter III. Salary Classifications

Part D

Longevity

Sec.

5-544.01. Service longevity.

Subchapter III. Salary Classifications.

PART C.

METHOD OF APPOINTMENT, ADVANCEMENT, PROMOTION, AND DEMOTION.

§ 5-543.02. Technicians' positions.

Section references. — This section is referenced in § 5-542.02, § 5-543.04, and § 5-545.06a.

CASE NOTES

Overtime pay.
The \$595 annual stipend under District of Columbia statute for detective sergeants was part of plaintiffs' regular pay rate and had to be included in FLSA overtime calculation; District contended that stipend was not part of their basic compensation but rather was additional payment that should not be so included, but FLSA mandated that regular rate include all remuneration for employment paid to, or on behalf of, employee unless it fell under one of eight expressly provided exclusions and District did not reference the exemptions, let alone argue that one of them applied to situation. *Figueroa v. District of Columbia*, 2012 WL 2367088 (2012).

PART D.

LONGEVITY.

§ 5-544.01. Service longevity.

(a)(1) In recognition of long and faithful continuous service, each officer and member in the active service on or after August 29, 1972, except for the Chief of Police and the Fire Chief, shall receive per annum, in addition to the rate of basic compensation prescribed in the salary schedule contained in § 5-541.01, an amount computed in accordance with the following table:

If an officer or member has completed at least:	He shall receive per annum an amount, fixed to the nearest dollar, equal to:
Fifteen years of continuous service.	Five per centum of the rate of basic compensation prescribed for service step 1 of the salary class of such salary schedule which he occupies.
Twenty years of continuous service.	Ten per centum of such compensation.
Twenty-five years of continuous service.	Fifteen per centum of such compensation.
Thirty years of continuous service.	Twenty per centum of such compensation.

(1A) Repealed.

(1B) Notwithstanding this subsection or any other provision of law, Cathy L. Lanier, Chief of Police, upon completion of 25 years of continuous service with the Metropolitan Police Department, effective September 24, 2015, shall receive in addition to her respective salary set in accordance with § 1-610.52,

an amount computed by multiplying her salary by five per centum for her years of service.

(2) For purposes of paragraph (1) of this subsection, continuous service as an officer or member includes only those periods of his service determined to have been satisfactory service and any period of his service in the Armed Forces of the United States other than any period of such service:

- (A) Determined not to have been satisfactory service;
- (B) Rendered before appointment as an officer or member; or
- (C) Rendered after resignation as an officer or member.

(3)(A) Subject to the availability of federal or local appropriations, each officer and member of the Metropolitan Police Department appointed on or before February 15, 1980, shall receive additional compensation in accordance with paragraph (1) of this subsection only as long as he remains in the active service. The additional compensation shall be paid in the same manner as the basic compensation to which such officer or member is entitled and shall be subject to the same deductions as basic compensation, but shall not be considered as salary for the purpose of computing insurance coverage under the provisions of Chapter 87 of Title V of the United States Code. The additional compensation shall be included for purposes of retirement annuity calculations only for those officers and members who complete 20 years of active service prior to retirement. The District of Columbia and the Secretary of the Treasury are authorized to estimate the additional compensation for longevity for purposes of retirement annuity calculations for annuitants who retired on or after August 29, 1972, and on or before December 31, 2001. The District of Columbia and the Secretary of the Treasury are authorized to make payments based upon the use of such estimates. For the purpose of computing credit for service longevity in calculating retirement annuities pursuant to this subparagraph, active service includes any service that is creditable under § 5-704.

(B) Subject to the availability of federal or local appropriations, each officer and member of the Metropolitan Police Department appointed after February 15, 1980, shall receive additional compensation in accordance with paragraph (1) of this subsection only as long as he remains in the active service. The additional compensation shall be paid in the same manner as the basic compensation to which the officer or member is entitled and shall be subject to the same deduction as basic compensation, but shall not be considered as salary for the purpose of computing insurance coverage under the provisions of Chapter 87 of Title V of the United States Code. Such additional compensation shall be included for purposes of retirement annuity calculations only for those officers and members who complete 25 years of active service prior to retirement. The District of Columbia and the Secretary of the Treasury are authorized to estimate the additional compensation for longevity for purposes of retirement annuity calculations for annuitants who retired on or after August 29, 1972, and on or before December 31, 2001. The District of Columbia and the Secretary of the Treasury are authorized to make payments based upon the use of such estimates. For the purpose of computing credit for service longevity in calculating retirement annuities pursuant to this

§ 5-544.01 POLICE, FIREFIGHTERS, MEDICAL EXAMINER, AND FORENSICS

subparagraph, active service includes any service that is creditable under § 5-704.

(B-1) Each member of the Fire Service shall receive additional compensation in accordance with paragraph (1) of this subsection only as long as the member remains in the active service. The additional compensation shall be paid in the same manner as the basic compensation to which the member is entitled and shall be subject to the same deductions as basic compensation. The service longevity payment shall be considered basic compensation for the purposes of retirement, calculation of survivor benefits and annuities under § 5-716, life insurance, and other forms of premium pay, for each member who retires on or after February 15, 1980. For the purpose of computing credit for service longevity in calculating retirement annuities pursuant to this subparagraph, active service includes any service that is creditable under § 5-704.

(B-2) For the purposes of retirement benefits based on the service longevity compensation provided for in this paragraph, the District government shall be liable financially only for District contributions to and payments from the District of Columbia Police Officers and Fire Fighters' Retirement Fund, established by § 1-712, for those benefits accrued or earned on or after July 1, 1997.

(C) Subject to the availability of federal or local appropriations, § 5-745(c) and (e) shall not apply to compensation for service longevity provided for in this paragraph.

(4) This subsection shall not apply to officers and members of the United States Secret Service Uniformed Division or the United States Park Police.

(b) Notwithstanding any other provision of this or any other law, individuals retired from active service prior to the effective date of the District of Columbia Police and Firemen's Salary Act Amendments of 1972, and who are entitled to receive a pension relief allowance or retirement compensation under subchapter I of Chapter 7 of this title, shall not be entitled to receive an increase in their pension relief allowance or retirement compensation by reason of the enactment of this section.

(c) Notwithstanding any other provision of this or any other law, each Deputy Chief of the Metropolitan Police force and of the Fire Department of the District of Columbia shall, upon completion of 30 years of continuous service on the police force or Fire Department, as the case may be, be placed in, and receive basic compensation at, the highest service step in the salary class to which his position is assigned in the salary schedule contained in § 5-541.01. For purposes of this subsection, in computing a Deputy Chief's continuous service on the police force or Fire Department, there shall be included only those periods of his service determined to have been satisfactory service and any period of his service in the Armed Forces of the United States other than any period of such service:

- (1) Determined not to have been satisfactory service;
- (2) Rendered before appointment as an officer or member; or
- (3) Rendered after resignation as an officer or member.

(d)(1) Notwithstanding any other law or regulation, employees appointed pursuant to § 1-610.72 shall be eligible for compensation in accordance with this section.

(2) Notwithstanding any other law or regulation, for employees appointed pursuant § 1-610.72, years of law enforcement experience shall constitute years of continuous service to the District of Columbia for purposes of this section.

(e) For employees transferred pursuant to § 5-409.01, any continuous prior service with the District of Columbia Fire and Emergency Medical Services Department shall constitute years of continuous service to the District of Columbia for the purposes of this section.

(Aug. 1, 1958, 72 Stat. 484, Pub. L. 85-584, title IV, § 401; Oct. 24, 1962, 76 Stat. 1243, Pub. L. 87-882, § 3(d); Sept. 2, 1964, 78 Stat. 882, Pub. L. 88-575, title I, § 105; May 27, 1968, 82 Stat. 144, Pub. L. 90-320, § 3; June 30, 1970, 84 Stat. 356, Pub. L. 91-297, title I, § 106; Aug. 29, 1972, 86 Stat. 638, Pub. L. 92-410, title I, § 110; 1973 Ed., § 4-832; Sept. 3, 1974, 88 Stat. 1037, Pub. L. 93-407, title I, § 101(a)(8), (9); May 9, 2000, D.C. Law 13-101, § 2, 47 DCR 1354; Oct. 4, 2000, D.C. Law 13-160, § 103(h), 47 DCR 4619; Dec. 21, 2000, 114 Stat. 2763, Pub. L. 106-554, § 1(a)(4), H.R. 5666 § 904(c); Oct. 3, 2001, D.C. Law 14-28, § 204, 48 DCR 6981; Oct. 19, 2002, D.C. Law 14-213, § 10, 49 DCR 8140; Mar. 13, 2004, D.C. Law 15-105, § 37(b), 38(a), 51 DCR 881; Mar. 30, 2004, D.C. Law 15-125, § 2, 51 DCR 1545; Mar. 6, 2007, D.C. Law 16-223, § 202, 53 DCR 10221; May 13, 2008, D.C. Law 17-154, § 6(b), 55 DCR 3678; Feb. 24, 2012, D.C. Law 19-83, § 3, 58 DCR 11024; Dec. 21, 2012, D.C. Law 19-205, § 4, 59 DCR 12472.)

Section references. — This section is referenced in § 5-545.06a and § 5-723.02.

Effect of amendments.

The 2012 amendment by D.C. Law 19-205 added (1B).

Legislative history of Law 19-205. — Law 19-205, the “Retention Incentives for Chief of Police Cathy L. Lanier Amendment Act of

2012,” was introduced in Council and assigned Bill No. 19-778. The Bill was adopted on first and second readings on July 10, 2012, and Sept. 19, 2012, respectively. Signed by the Mayor on Oct. 10, 2012, it was assigned Act No. 19-480 and transmitted to Congress for its review. D.C. Law 19-205 became effective on Dec. 21, 2012.

CHAPTER 7. POLICE AND FIREFIGHTERS RETIREMENT AND DISABILITY.

Subchapter I. Retirement and Disability, 1916

Sec.

5-716. Survivor benefits and annuities.

Subchapter I. Retirement and Disability, 1916.

§ 5-701. Definitions.

Section references. — This section is referenced in § 1-632.03, § 1-702, § 1-712, § 1-

732, § 1-901.02, § 5-631, § 5-702, § 5-704, § 7-2203, § 10-505.03, and § 10-505.04.

CASE NOTES

Review.

Review of the construction by Police and

Firefighters’ Retirement and Relief Board (PFRRB) of the Police and Firefighters’ Retire-

ment and Disability Act (PFRDA) is de novo, for the Court of Appeals is the final authority on issues of statutory construction and the ultimate interpreter of the statutory provisions

from which the PFRRB, as a creature of the legislature, derives its powers. *O'Rourke v. D.C. Police & Firefighters' Ret. & Relief Bd.*, 46 A.3d 378, 2012 D.C. App. LEXIS 304 (2012).

§ 5-704. Creditable service.

Section references. — This section is referenced in § 1-903.01, § 5-544.01, § 5-701, § 5-705, § 5-706, § 5-761, § 5-762, § 6-223, and § 10-505.05.

Emergency legislation.

For temporary amendment of section, see

§ 2(a) of the Police and Firefighter's Retirement and Disability Omnibus Emergency Amendment Act of 2012 (D.C. Act 19-585, January 1, 2013, 60 DCR 151).

§ 5-706. Deductions, deposits, and refunds; order of persons entitled to refunds for deductions.

Section references. — This section is referenced in § 1-712, § 1-903.01, § 5-704, § 5-717, and § 5-741.

Emergency legislation.

For temporary amendment of (1), (5), (7)(A),

and (8), and addition of (10) and (11), see § 2(b) of the Police and Firefighter's Retirement and Disability Omnibus Emergency Amendment Act of 2012 (D.C. Act 19-585, January 1, 2013, 60 DCR 151).

§ 5-709. Retirement for disability — Not incurred in performance of duty.

Section references. — This section is referenced in § 1-725, § 5-131.03, § 5-632, § 5-

634, § 5-706, § 5-714, § 5-716, § 5-717, and § 5-721.

CASE NOTES

Termination of employment.

Membership in the metropolitan police force at the time a recommendation or application for disability retirement reaches the Police and Firefighters' Retirement and Relief Board (PFRRB) is sufficient to satisfy the membership requirements of the disability annuity provi-

sions of the Police and Firefighters' Retirement and Disability Act (PFRDA), regardless of whether the member is terminated before the PFRRB comes to its decision. *O'Rourke v. D.C. Police & Firefighters' Ret. & Relief Bd.*, 46 A.3d 378, 2012 D.C. App. LEXIS 304 (2012).

§ 5-710. Retirement for disability — Incurred or aggravated in performance of duty.

Section references. — This section is referenced in § 1-725, § 5-131.03, § 5-632, § 5-

633, § 5-701, § 5-706, § 5-708, § 5-709, § 5-711, § 5-714, § 5-716, § 5-717, and § 5-721.

CASE NOTES

ANALYSIS

Denial of disability.

Termination of employment.

Denial of disability.

Basis of officer's termination from metropolitan police force, i.e., that he had falsely denied when applying for employment having been examined for any disease or physical impair-

ment, when in fact he had been tested for a heart condition, would not render him ineligible for disability retirement for which he was recommended prior to his termination, absent any indication that the purportedly disabling injuries he sustained in chasing a carjacker were related in any way to the condition of his heart, or to anything else he allegedly hid from police department when he was hired.

O'Rourke v. D.C. Police & Firefighters' Ret. & Relief Bd., 46 A.3d 378, 2012 D.C. App. LEXIS 304 (2012).

Termination of employment.

Membership in the metropolitan police force at the time a recommendation or application for disability retirement reaches the Police and Firefighters' Retirement and Relief Board

(PFRRB) is sufficient to satisfy the membership requirements of the disability annuity provisions of the Police and Firefighters' Retirement and Disability Act (PFRDA), regardless of whether the member is terminated before the PFRRB comes to its decision. O'Rourke v. D.C. Police & Firefighters' Ret. & Relief Bd., 46 A.3d 378, 2012 D.C. App. LEXIS 304 (2012).

§ 5-712. Optional retirement.

Section references. — This section is referenced in § 5-105.05, § 5-704, § 5-706, § 5-716, and § 5-717.

Emergency legislation.

For temporary addition of (8) and (9), see

§ 2(c) of the Police and Firefighter's Retirement and Disability Omnibus Emergency Amendment Act of 2012 (D.C. Act 19-585, January 1, 2013, 60 DCR 151).

§ 5-716. Survivor benefits and annuities.

(a) If any member: (1) dies in the performance of duty and the Mayor determines that: (A) the member's death was the sole and direct result of a personal injury sustained while performing such duty; (B) his death was not caused by his willful misconduct or by his intention to bring about his own death; and (C) intoxication of the member was not the proximate cause of his death; and (2) is survived by a survivor, parent, or sibling, a lump-sum payment of \$50,000 shall be made to his survivor if the survivor received more than one half of his support from such member, or if such member is not survived by any survivor (including a survivor who did not receive more than one half of his support from such member), to his parent or sibling if the parent or sibling received more than one half of his support from such member. If such member is survived by more than 1 survivor entitled to receive such payment, each such survivor shall be entitled to receive an equal share of such payment; or if such member leaves no survivor and more than 1 parent or sibling who is entitled to receive such payment, each such parent or sibling shall be entitled to receive an equal share of such payment.

(a-1) In the case of any member who dies in the performance of duty after December 29, 1993, and leaves a widow or widower entitled to all or a portion of the benefit described in subsection (a) of this section, an additional annuity shall be paid. This annuity shall be equal to 100% of the member's pay at the time of death. The annuity shall be increased at the same rate as the change in the Consumer Price Index, as described in § 5-721. This benefit shall be paid in lieu of benefits provided for by subsections (b) and (c) of this section. However, after benefits provided for in this paragraph end, as provided in subsection (e) of this section, any remaining benefit pursuant to subsection (c) of this section shall commence to be paid.

(a-2) The determination of the Mayor authorized by subsection (a) of this section shall be subject to review and final determination by the District of Columbia Retirement Board.

(b) In case of the death of any member before retirement, of any former member after retirement, or of any member entitled to receive an annuity

under § 5-717 (regardless of whether such member is receiving such annuity at the time of death), leaving a widow or widower, such widow or widower shall be entitled to receive an annuity in the greater amount of:

(1) Forty per centum of such member's average pay at the time of death, or 40%:

(A) Of the adjusted average pay of such former member in the case of a member who was an officer or member of the United States Park Police force, the United States Secret Service Uniformed Division, or the United States Secret Service Division; or

(B) Of the adjusted average pay of such former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia; or

(2) Forty per centum of the corresponding salary for step 6 of salary class 1 of the District of Columbia Police and Firemen's Salary Act salary schedule currently in effect at the time of such member or former member's death, or, for a member who was an officer or member of the United States Secret Service Uniformed Division, or the United States Secret Service Division, 40 percent of the corresponding salary for step 5 of the Officer rank in section 10203 of title 5, United States Code; provided, that such annuity shall not exceed the current rate of compensation of the position occupied by such member at the time of death, or by such former member immediately prior to retirement.

(c) Each surviving child or student child of any member who dies before retirement, of any former member who dies after retirement, or of any member entitled to receive an annuity under § 5-717 (regardless of whether such member is receiving such annuity at the time of death), shall be entitled to receive an annuity equal to the smallest of:

(1) In the case of a member or former member who is survived by a wife or husband:

(A) Sixty per centum of:

(i) The member's average pay at the time of death; or

(ii) The adjusted average pay of the former member in the case of a member who was an officer or member of the United States Park Police force, the United States Secret Service Uniformed Division, or the United States Secret Service Division, or the adjusted average pay of the former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, divided by the number of eligible children;

(B) \$2,918.00, to be increased on an annual basis by the cost of living adjustment determined pursuant to § 5-718; or

(C) \$8,754.00, divided by the number of eligible children, to be increased on an annual basis by the cost of living adjustment determined pursuant to § 5-718, divided by the number of eligible children; and

(2) In the case of a member or former member who is not survived by a wife or husband:

(A) 75% of the member's average pay at the time of death, divided by the number of eligible children;

(B) In the case of a member who was an officer or member of the United States Park Police Force, the United States Secret Service Uniformed Division,

or the United States Secret Service Division, 75% of the adjusted average pay of the former member, divided by the number of eligible children; or

(C) In the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, 75% of the adjusted average pay of the former member, divided by the number of eligible children.

(d) Each widow or widower who, on the effective date of the Policemen and Firemen's Retirement and Disability Act Amendments of 1970, was receiving relief or annuity computed in accordance with the provisions of this section shall be entitled to receive an annuity in the greater amount of: (1) \$3,144; or (2) thirty-five per centum of the basis upon which such relief or annuity was computed. Each child who, on October 3, 2001, was receiving relief or annuity computed in accordance with the provisions of this section, shall be entitled to benefits computed in accordance with the provisions of subsection (c) of this section.

(e)(1) The annuity of the widow or widower under this section shall begin on the day after the date on which the member or former member dies, and such annuity or any right thereto shall terminate upon the survivor's death or remarriage before age 60; provided, that any annuity terminated by remarriage may be restored if such remarriage is later terminated by death, annulment, or divorce.

(2) The annuity of any child under this section shall begin on the day after the date on which the member or former member dies, and the annuity shall terminate upon whichever of the following occurs first:

(A) The child becomes 18 years of age or, if over 18 years of age and incapable of self-support, becomes capable of self-support;

(B) The child marries; or

(C) The child dies.

(3)(A) The annuity of any student child under this section shall begin on the day after the date on which the member or former member dies, and the annuity shall terminate upon whichever of the following occurs first:

(i) The student child marries;

(ii) The student child ceases to be a student;

(iii) The student child reaches 22 years of age; or

(iv) The student child dies.

(B) For the purposes of this paragraph, a student child whose 22nd birthday falls on or after July 1st shall not be considered to have reached 22 years of age until the June 30th following the student child's actual 22nd birthday.

(4) If the annuity of a child under paragraph (2) or paragraph (3) of this subsection terminates because of marriage and such marriage ends, the annuity shall resume on the first day of the month in which it ends, but only if the individual is not otherwise ineligible for the annuity.

(5) Notwithstanding the provisions of paragraphs (2) and (3) of this subsection, no annuity of a child or student of a widow or widower under subsection (a-1) of this section shall be paid while an annuity benefit to a widow or widower under subsection (a-1) of this section is being paid.

(f) Any member retiring under § 5-709, § 5-710, or § 5-712, may at the time of such retirement, and any member entitled to receive an annuity under § 5-717 may at the time such annuity commences, elect to receive a reduced annuity in lieu of full annuity, and designate in writing the person to receive an increased annuity after such member's death; provided, that the person so designated be the surviving spouse or child of such member. Whenever such an election is made, the annuity of the designee shall be increased by an amount equal to the amount by which the annuity of such member is reduced. The annuity payable to the member making such election shall be reduced by 10% of the annuity computed as provided in § 5-709, § 5-710, or § 5-712. Such increase in annuity payable to the designee shall be reduced by 5% for each full 5 years the designee is younger than the member, but such total reduction shall not exceed 40%. The increase in annuity payable to the designee pursuant to this subsection shall be paid in addition to the annuity provided for such designee pursuant to subsection (b) or subsection (c) of this section and shall be subject to the same limitations as to duration and other conditions as the annuity paid pursuant to subsections (b), (c), and (e) of this section. If, at any time after such former member's election, the designee dies, and is survived by such former member, the annuity payable to such former member shall be increased to the amount computed as provided in § 5-709, § 5-710, § 5-712, or § 5-717, as the case may be.

(Sept. 1, 1916, ch. 433, § 12(k); Aug. 21, 1957, 71 Stat. 396, Pub. L. 85-157, § 3; Oct. 26, 1970, 84 Stat. 1137, Pub. L. 91-509, § 1(8); Aug. 29, 1972, 86 Stat. 642, Pub. L. 92-410, title II, § 201(a)(4); Sept. 3, 1974, 88 Stat. 1040, Pub. L. 93-407, title I, § 121(b)(4), (5); Nov. 15, 1977, 91 Stat. 1371, Pub. L. 95-179; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, §§ 206(a)(1), 207(a)(2), 209(b); June 22, 1990, D.C. Law 8-145, § 2, 37 DCR 2977; Nov. 19, 1995, 109 Stat. 505, Pub. L. 104-52, § 630(b); Nov. 19, 1997, 111 Stat. 2184, Pub. L. 105-100, § 152(b)(1); Oct. 19, 2000, D.C. Law 13-172, § 1102, 47 DCR 6308; Oct. 3, 2001, D.C. Law 14-28, § 2102, 48 DCR 6981; Apr. 13, 2005, D.C. Law 15-354, § 13(e), 52 DCR 2638; Mar. 21, 2009, D.C. Law 17-321, § 2(a), 56 DCR 222; Oct. 15, 2010, 124 Stat. 3033, Pub. L. 111-282, § 4(b)(5); Sept. 26, 2012, D.C. Law 19-171, § 40, 59 DCR 6190.)

Section references. — This section is referenced in § 5-544.01, § 5-702, § 5-714, § 5-718, § 5-719, § 5-721, § 5-744, and § 5-747.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in (e)(1) and (e)(2).

Emergency legislation.

For temporary addition of (7), see § 2(d) of the Police and Firefighter's Retirement and Disability Omnibus Emergency Amendment Act of 2012 (D.C. Act 19-585, January 1, 2013, 60 DCR 151).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 5-723. Accrualment and payment of annuities; persons who may accept payment; waiver; reduction.

Section references. — This section is referenced in § 1-611.03 and § 1-711.

CASE NOTES

ANALYSIS

Remand.

Salary basis.

Remand.

Remand to District of Columbia Superior Court of remaining nonfederal claims in removed action where all federal claims were dismissed was appropriate, as those claims raised novel and complex issues of District law. *Cannon v. District of Columbia*, 2012 WL 2673097 (2012).

Salary basis.

Relevant “salary basis” for determining whether retired police officers first employed by District of Columbia before 1987 and rehired by District after 2004 were exempt executive or administrative employees under FLSA was amount of District paychecks they would receive before offset for pension payments was applied, not amount they received after their paychecks had been reduced to account for those payments. *Cannon v. District of Columbia*, 2012 WL 2673097 (2012).

§ 5-723.01. Maximum amount of benefits and contributions.

Emergency legislation. — For temporary addition of section, see § 2(e) of the Police and Firefighter’s Retirement and Disability Omni-

bus Emergency Amendment Act of 2012 (D.C. Act 19-585, January 1, 2013, 60 DCR 151).

§ 5-723.02. Longevity compensation.

Emergency legislation. — For temporary addition of the Act of Sept. 1, 1916, 39 Stat. 718, ch. 433, §§ 12(n-3), 12(n-4), and 12(n-5), concerning required minimum distributions, disposition of forfeitures, and funds not assignable

or subject to execution, see § 2(f) of the Police and Firefighter’s Retirement and Disability Omnibus Emergency Amendment Act of 2012 (D.C. Act 19-585, January 1, 2013, 60 DCR 151).

Subchapter I. General Provisions.

§ 5-1304. Basic workweek established; overtime; special assignments; court duty.

Section references. — This section is referenced in § 1-632.03 and § 5-521.01.

CASE NOTES

Stipends.

The \$595 annual stipend under District of Columbia statute for detective sergeants was part of plaintiffs’ regular pay rate and had to be included in FLSA overtime calculation; District contended that stipend was not part of their basic compensation but rather was additional payment that should not be so included, but

FLSA mandated that regular rate include all remuneration for employment paid to, or on behalf of, employee unless it fell under one of eight expressly provided exclusions and District did not reference the exemptions, let alone argue that one of them applied to situation. *Figueroa v. District of Columbia*, 2012 WL 2367088 (2012).

CHAPTER 14. CHIEF MEDICAL EXAMINER.

Sec.
5-1401. Definitions.

§ 5-1401. Definitions.

For the purposes of this chapter, the term:

- (1) “District” means the District of Columbia.
- (2) “Legal custody” includes imprisonment, jail, or detention.
- (3) “Ward” means any person in the official custody of the District government, on a temporary or permanent basis, because of neglect, abuse, mental illness or intellectual disability.

(Oct. 19, 2000, D.C. Law 13-172, § 2902, 47 DCR 6308; Sept. 26, 2012, D.C. Law 19-169, § 13, 59 DCR 5567.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted “intellectual disability” for “mental retardation” in (3).

Legislative history of Law 19-169. — Law 19-169, the “People First Respectful Language Modernization Amendment Act of 2012,” was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and sec-

ond readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor’s notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 5-1418. Office of the Chief Medical Examiner Management Fund.

Emergency legislation.

For temporary (90 day) addition of section, see § 202 of Comprehensive Impaired Driving and Alcohol Testing Program Emergency Amendment Act of 2012 (D.C. Act 19-429, July 30, 2012, 59 DCR 9387).

For temporary addition of D.C. Law 13-172,

§ 2918b, concerning blood and urine testing for the District’s impaired driving program, see § 202 of the Comprehensive Impaired Driving and Alcohol Testing Program Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-508, October 26, 2012, 59 DCR 13325).

CHAPTER 15. DEPARTMENT OF FORENSIC SCIENCES.

§ 5-1501.07. Testing of breath alcohol equipment.

Emergency legislation. — For temporary (90 day) amendment of section, see § 201 of Comprehensive Impaired Driving and Alcohol Testing Program Emergency Amendment Act of 2012 (D.C. Act 19-429, July 30, 2012, 59 DCR 9387).

For temporary amendment of section, see § 201 of the Comprehensive Impaired Driving and Alcohol Testing Program Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-508, October 26, 2012, 59 DCR 13325).

§ 5-1501.08. Transfer of personnel, records, functions, and authority.

Emergency legislation. — For temporary (90 day) amendment of section, see § 303 of Comprehensive Impaired Driving and Alcohol Testing Program Emergency Amendment Act of 2012 (D.C. Act 19-429, July 30, 2012, 59 DCR 9387).

For temporary addition of (a-1) and amendment of (b), see § 303 of the Comprehensive Impaired Driving and Alcohol Testing Program Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-508, October 26, 2012, 59 DCR 13325).

§ 5-1501.11. Science Advisory Board.

Section references. — This section is referenced in § 1-523.01 and § 5-1501.01.

Emergency legislation. — For temporary amendment of (a)(1), see § 507 of the Omnibus

Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

